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**Managing Religious Diversity in South East Asia:
How Insult Laws Backfire**

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Managing Religious Diversity in South East Asia: How Insult Laws Backfire

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Abstract

Incidents such as the 2015 murder of *Charlie Hebdo* cartoonists prompted many liberals to rethink the proper balance between freedom of expression and respect for religion. In the present climate, marked by anxiety over the extreme violence that accompanies religious offence, it may appear that diverse societies have no choice but to sacrifice free speech for the sake of peaceful relations among different communities. Indeed, this has been the conventional wisdom in many Asian societies. This article, however, challenges the view that the law should step in when communities claim that their religious feelings have been offended. Referring to the experiences of Indonesia and Singapore, it argues that the criminalisation of religious offence—through blasphemy, sedition and other laws—tends to be exploited by political actors against their opponents, often at the expense of religious minorities or other marginalised groups.

Introduction

One of the most successful franchises in modern political drama combines the themes of free speech and religious offence. These highly charged performances involve threats to public order—sometimes including bloody violence—and calls for censorship. The most famous examples from the past decade were the controversies around the *Charlie Hebdo* satirical magazine, the *Innocence of Muslims* YouTube video, and the Danish newspaper cartoons. Many more such incidents have taken place at the domestic level. The seemingly automatic violence that follows religious offence has made some liberals wonder whether it is time to redraw the Western liberal democracies' limits on freedom of expression.

These trends seem to vindicate the more speech-restrictive policies found in Southeast Asia, where all countries have laws prohibiting religious insult.

Conservatives argue that religion is too important an aspect of people's identity to be vilified with impunity. In some countries with an official religion, like Malaysia, an attack on that faith is treated as anti-national. But even secular states with no special ties to any religion, like Singapore, treat religious insult as a particularly dangerous form of speech requiring the strictest regulation on grounds of maintaining public order.

My research challenges this conventional wisdom in the regulation of religious offence. Case studies from around the world suggest that using the law to regulate religious insult is counterproductive. This is not a claim derived from a position of free speech fundamentalism, that there is some absolute right to freedom of expression. Nor is it based on a secular fundamentalist view that treats all things religious as having no place in a modern society. Respect for religion and belief should be promoted by plural democracies, and some kinds of verbal or symbolic attack on religious communities do need to be prohibited by law. However, we should be careful about where we draw the line separating permissible offence from illegal speech. Democratic pluralism does require respect for religious beliefs; but the question is whether that respect should be enforced by law. There is enough evidence from around the world, including Southeast Asia, to show that legal restrictions on religious offence tend to backfire, producing side effects that are worse than the ills that they were meant to cure. In Singapore, it is a favourite argument of self-described realists that diverse societies cannot afford not to restrict religiously offensive speech, and that those who think otherwise are dreamers. I will argue that it is perhaps those who claim that religious insult laws are adding to social harmony who may be out of touch with ground realities.

“Hate Spin” and Human Rights

Before analysing the dynamics of speech and religious offence in Singapore and Indonesia, let me explain my conceptual framework. Debates around these issues are often plagued by a lack of clarity about what we are talking about. The term “hate speech” has grown increasingly popular in policy discussions, but it is often misused. There are indeed strong human rights justifications for prohibiting hate speech: people have a right to be protected from being targeted for unfair discrimination or violence on account of their race, religion or other group identity. Hate speech that directly incites such harms deserves to be prohibited, free speech notwithstanding. Speech that *incites* harms, however, needs to be distinguished from speech that *offends*. This is a

key distinction made in international and regional human rights treaties as well as in the domestic laws in most democracies.

Article 19 of the International Covenant on Civil and Political Rights (ICCPR) enshrines freedom of expression as a right that belongs to everyone; this includes “freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers”.¹ Speech can be restricted on certain grounds, but the list of legitimate interests does not include the protection of people’s religious feelings, the status of clerics, or the sanctity of any belief or icon. From this perspective, the right to free speech would ring hollow if it excluded everything that anyone deemed offensive. If speech did not offend anyone, a right to express it would be redundant since nobody would object to that expression.

On the other hand, Article 20 of the ICCPR says that hate speech should be restricted. More precisely, any “advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence” must be prohibited by law.² Together, Articles 19 and 20 protect the right to offend, while requiring the prohibition of incitement.³ Basically the same principle is followed in the regional human rights conventions of the Council of Europe and the Organization of American States.⁴

When expression is followed by violence or disorder, we need to ask if the disturbance was the result of offence or incitement. In classic hate speech—incitement—the audience is instigated to inflict harm upon an out-group. The community that has been targeted for vilification thereby becomes the victim of the eventual harm. It is discriminated against, denied democratic rights, harassed, physically attacked, or, in the extreme case, exterminated in a genocide. But none of this describes the eruptions of intolerance that we are concerned with here, such as the riots that follow the publication of cartoons that offend a religious community. In such

¹ United Nations. “International Covenant on Civil and Political Rights.” United Nations, December 16, 1966. <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

² Ibid.

³ Barbora Bukovska, Agnes Callamard, and Sejal Parmar. “Towards an Interpretation of Article 20 of the ICCPR: Thresholds for the Prohibition of Incitement to Hatred.” Vienna: Article 19, 2010. <http://www.ohchr.org/Documents/Issues/Expression/ICCPR/Vienna/CRP7Callamard.pdf>.

⁴ Cherian George, “Hate Speech.” Edited by Robin Mansell and Peng Hwa Ang. *International Encyclopedia of Digital Technology and Communication*. Chichester, U.K.: Wiley-Blackwell, 2014.

cases, the violence is a reaction against the perceived insult. The harm does not flow in the same direction as the offence, as we would see in hate speech. Instead, it is the offended who rise in rage, ready to inflict harm on the perceived source of the offence. This is not incitement, but indignation; not offence-giving, but offence-taking.

The most harmful hate speech, which has been studied for decades, is well understood to be a calculated political act.⁵ I argue that episodes of sustained, mass offence-taking are usually strategic as well. Furthermore, most movements that are in the business of destructive identity politics use both of these methods in parallel: the most effective peddlers of intolerance employ both incitement and manufactured indignation.

We lack a vocabulary to analyse this double-sided strategy. I call it “hate spin”. I define hate spin as the giving or taking of offence as a political strategy, to galvanise in-groups and attack opponents. I place the concept of hate spin squarely in political sociology’s tradition of scholarship on social movements and related forms of contentious collective action.⁶ From social movement research, we know that movement leaders often use “injustice symbols” to rally support.⁷ We can think of the offence-taking side of hate spin as being engaged in the construction of injustice symbols out of books, videos, cartoons, places of worship and other artefacts or events that are said to cause intolerable offence.

Hate spin is an act of political entrepreneurship; it is not the inevitable product of religious difference. One of the most common misperceptions about mass religious outrage is that it is a kind of spontaneous combustion that results when inflammatory messages meet inherently unstable publics. This myth has been debunked by exhaustive studies of India’s communal violence, which reveal that political opportunists play an instrumental role in converting instinctive feelings of offendedness into fullblown

⁵ Rita Kirk Whillock. “The Use of Hate as a Strategem for Achieving Social and Political Goals.” In *Hate Speech*, edited by Rita Kirk Whillock and David Slayden, 28–54. Thousand Oaks, Calif.: Sage Publications, 1995; Cees J. Hamelink. *Media and Conflict: Escalating Evil*. Boulder, Colorado: Paradigm Publishers, 2011; Alexander Tsesis. *Destructive Messages: How Hate Speech Paves the Way For Harmful Social Movements*. New York, N. Y.: New York University Press, 2002.

⁶ Sidney Tarrow. *Power in Movement: Social Movements and Contentious Politics*. 2nd ed. Cambridge University Press, 1998.

⁷ William A. Gamson. “Injustice Frames.” In *The Wiley-Blackwell Encyclopedia of Social and Political Movements*, edited by David A. Snow, Donatella Della Porta, Bert Klandermans, and Doug McAdam. Oxford, UK: Blackwell Publishing Ltd, 2013. doi:10.1002/9780470674871.wbespm110; Thomas Olesen. *Global Injustice Symbols and Social Movements*. New York, N. Y.: Palgrave Macmillan, 2015.

riots.⁸ Without diminishing the genuine hurt that believers may feel when their religion is wantonly demeaned, I argue that when outrage reaches a certain scale and intensity, analysts should immediately assume that these spectacles have been manufactured and facilitated by middlemen: hate spin agents who decide that there is political advantage to be gained from an outburst of religious indignation.

Manufactured indignation can be seen as more symbolic than instrumental in intent.⁹ Although the offended groups act as if they are reacting to an absolutely intolerable provocation, it is rarely the case that they will not rest until it is totally removed. It is the performance of righteous indignation that really matters to them; the offending expression merely serves as an opening for that performance. Hate spin agents decide when protests should start and end based on their own political calculations; rarely does the sequence of events coincide with the start and end of alleged provocation.

One of the most important distinctions between the two sides of hate spin is that incitement is by definition always deliberate, whereas indignation can be whipped up regardless of whether the perceived offence was intended. Artistic works and cultural practices are particularly prone to this, since offence, like beauty, is in the eye of the beholder. Similarly, minority religious practices, even if they have no evangelical intent and are conducted mainly in private, can be claimed to offend orthodoxies.

This inherent asymmetry in offence is the main reason why the law is a poor instrument to deal with it. Blasphemy and the wounding of religious feelings are inherently subjective, making laws that attempt to regulate them highly problematic. In countries with a dominant religion, such laws can be abused to repress religious minorities. Even in countries where the state tries to treat all faith groups equally, such laws can provide them with an equal right to feel insulted, cultivating a broad culture of offendedness, to borrow a term used by Salman Rushdie. There is also the liberal argument that human progress is only possible if people have the freedom to challenge

⁸ Paul R. Brass. *The Production of Hindu-Muslim Violence in Contemporary India*. Seattle: University of Washington Press, 2003.

⁹ Louis A. Zurcher, Jr, R. George Kirkpatrick, Robert G. Cushing, and Charles K. Bowman. "The Anti-Pornography Campaign: A Symbolic Crusade." *Social Problems* 19, no. 2 (1971): 217–38; Katherine Lemons and Joshua Takano Chambers-Letson. "Rule of Law: Sharia Panic and the US Constitution in the House of Representatives." *Cultural Studies* 28, no. 5–6 (2014): 1048–77.

prevailing ideas and beliefs, including in ways that upset, offend and shock others. Unfortunately, for a mix of reasons, Southeast Asian countries are wedded to the idea of policing offence.

Singapore's Search for Religious Harmony

Singapore is the world's most religiously diverse country.¹⁰ It has been lauded for its success in preserving social stability and inter-ethnic peace.¹¹ Singapore's racial, religious and linguistic plurality is treated by the ruling People's Action Party (PAP) as the defining feature of the country's national identity and the fundamental constraint on its politics.¹² The PAP itself is a secular, multi-ethnic party with a corporatist philosophy, drawing individuals from all of Singapore's main ethnic groups into political office. Assimilation into a "Singaporean Singapore" melting pot is not regarded by prevailing PAP dogma as a realistic option. Instead, the chosen formula is one that treats ethnic identities as vitally important to citizens, thus demanding the greatest respect and sensitivity.¹³ The PAP sees Singapore as a society riven by internal ethnic differences—unbridgeable fault lines that pose a perpetual threat to its stability. Another permanent source of anxiety is the city-state's location in Southeast Asia, where it is the only majority-Chinese state, surrounded by Muslim neighbours. The country's history of ethnic strife—though tame by international standards—is constantly invoked by the PAP to reinforce a national ideology of vulnerability.¹⁴

¹⁰ Pew Research Center. "Global Religious Diversity: Half of the Most Religiously Diverse Countries Are in the Asia-Pacific Region." Pew Research Center, April 4, 2014. <http://www.pewforum.org/files/2014/04/Religious-Diversity-full-report.pdf>.

¹¹ Moonis Ahmar. "The Challenge of Extremism in Pakistan: Are There Lessons to Be Learnt from the Experience of Singapore." *IPRI Journal* XI, no. 2 (2011): 44–63; Sim, Susan. "Strategies for Successful Risk Reduction Programmes for Violent Extremists: Lessons from Singapore, Indonesia and Afghanistan." In *Trends and Developments in Contemporary Terrorism*, edited by Dan-Radu Voica, 55–76. Amsterdam, Netherlands: IOS Press, 2012.

¹² Chua Beng Huat. "Multiculturalism in Singapore: An Instrument of Social Control." *Race & Class* 44, no. 3 (January 1, 2003): 58–77. doi:10.1177/0306396803044003025; Daniel P. S. Goh. "Multiculturalism and the Problem of Solidarity." In *Management of Success: Singapore Revisited*, edited by Terence Chong, 561–78. Singapore: Institute of Southeast Asian Studies, 2010.

¹³ Lai, Ah Eng. "Religious Diversity in Singapore." In *Management of Success: Singapore Revisited*, edited by Terence Chong, 309–31. Singapore: Institute of Southeast Asian Studies, 2010.

¹⁴ Ganesan Narayanan. "The Political History of Ethnic Relations in Singapore." In *Beyond Rituals and Riots: Ethnic Pluralism and Social Cohesion in Singapore*, edited by Ah Eng Lai, 41–64. Singapore: Eastern Universities Press, 2004.

Singapore's restrictions on speech reflect this ideology. Several laws prohibit speech that may be offensive to ethnic groups or that may otherwise upset inter-ethnic relations. The Sedition Act provides for imprisonment for up to three years or fines of up to S\$5,000 for uttering or publishing messages with a seditious tendency, which includes among other things promoting "ill will or hostility between the races and classes". In addition, the Penal Code was amended in 2007 to provide a more targeted instrument than the Sedition Act. The new Section 298 deals with anyone who "with deliberate intention of wounding the religious or racial feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, or causes any matter however represented to be seen or heard by that person". Section 298A covers the vaguer crime of attempting to promote disharmony between different religious or racial groups.

One common problem with such laws is that they are open to abuse by governments, which can cite the wounding of religious feelings as a justification for suppressing what is essentially political speech. Prominent cases include Russia's imprisonment of members of the punk protest group, Pussy Riot, after its guerrilla performance in a Moscow cathedral. They were jailed for hooliganism motivated by religious hatred, although it was patently clear that their protest was directed not at Christianity or Christians as such, but at Vladimir Putin and his supporters in the Russian Orthodox Church establishment. Similarly, religious outrage is often used as a convenient cover for politically-rooted extrajudicial violence. In Pakistan and Bangladesh, for example, murders are regularly attributed to religious extremism that human rights workers on the ground know to be politically motivated.

Cases in Singapore are far less extreme; political violence is practically non-existent. However, it suffers the same structural problem, of overbroad application of laws designed to protect religious harmony. One prominent case was the 2015 prosecution of a sixteen-year-old Singaporean boy over a vulgar rant against the deceased Lee Kuan Yew, regarded by many as the founding father of the republic. The substance of his video blog was not anything novel, condemning Lee as an intolerant dictator who had suppressed opposition and thwarted people's democratic aspirations. The timing of its release was considered distasteful by many grief-stricken Singaporeans: Yee uploaded it during the official week of mourning, even before Lee

was buried. However, Singapore has no law against defaming the dead, which meant that most of what Yee said, although designed to provoke, was not necessarily illegal. Except that in one brief segment of the video, Yee compared Lee to Jesus Christ, in a way that flattered neither. He said that both were “power hungry and malicious, but deceive others into thinking that they are compassionate and kind”. Lee’s followers were “completely delusional and ignorant” and easily manipulated, Yee said, likening them to Christians and their priests.

It was clear from the opinions expressed in the media that public and official indignation was provoked mainly by his expletive-ridden attack on a venerated leader who had just died; it was Yee’s religious insult, though, that handed authorities the legal justification to deal with him decisively. Several complaints were made to the police by Singaporeans who claimed that Yee’s statements were offensive to Christians, and thus harmful to social harmony. The boy was convicted of violating Section 298 of the Penal Code. He was also convicted on a separate obscenity charge, because the day before he released the video, he had posted a Photoshopped image of Lee Kuan Yew having sex with Margaret Thatcher, in response to reports saying that Thatcher had paid tribute to Lee as someone who was always right.¹⁵ Yee served a four-week prison sentence.

In the Amos Yee case, the interests of PAP supporters who wanted to punish dissenting speech were aligned with those of the religiously offended. In this respect, the episode was not typical. Most cases of alleged religious offence have been pushed by actors on the margins, often to embarrass powerful interests—including the ruling party. In one 2011 case, police reports were made against a member of the ruling party’s youth wing for an insensitive online post. The man had posted on his Facebook wall a photo of Muslim children—identified by the boys’ headgear and traditional loose shirts or baju—on a schoolbus belonging to a Muslim kindergarten. He captioned the photo, “Bus filled with young terrorist trainees?” He had been a party member for less than a year and held no office, making it inconceivable that he had any influence within the PAP. Nevertheless, his gaffe was a golden opportunity to embarrass a ruling party that

¹⁵ “Public Prosecutor v. Amos Yee Pang Sang.” *Columbia Global Freedom of Expression*. Accessed May 10, 2016. <https://globalfreedomofexpression.columbia.edu/cases/public-prosecutor-v-amos-yee-pang-sang/>.

pontificated constantly about the need to maintain social harmony. When the man's post was made public, he removed it, apologised and resigned from the party.¹⁶ That did not stop a Muslim opposition party member from lodging a police report. Any evidence of the PAP failing to live up to its own high standards of sensitivity towards race and religion represents a windfall for its critics. Its zero tolerance of offensive speech can thus be used against it.

Several cases have involved evangelical Christians' insensitive remarks about other religions. In 2010, for example, two Christian evangelical preachers were separately embroiled in controversies over statements they made in their sermons mocking Buddhism and Taoism.¹⁷ In these episodes, too, the calls for punishment did not come from the centre, and was not in the same vein as the suppression of dissent that one usually associates with speech restrictions in Singapore. Instead, the outraged reaction was probably linked to the deep unease that many Singaporeans feel towards the aggressive proselytisation of evangelical churches.¹⁸ Christianity is the fastest growing religion in Singapore and the intrusive methods of some churches have caused friction within families and society at large.¹⁹ There is also an on-going culture war between conservative Christians and gay rights groups. Clips and cuttings showing evangelicals unambiguously insulting other religions are smoking guns in this long-term ideological conflict.

An alternative reading of these events might see them as examples of a healthy civic response to threats to religious harmony. Thanks to the successful management of diversity, Singapore may have developed strong social norms of religious respect, causing citizens to rise up against offensive expression. Perhaps citizens have embraced and internalised the vision of a harmonious society, cultivated through decades of ring-fencing race and religion as no-go areas.

This may explain part of what is going on, but it would be an incomplete reading of the events. What it fails to account for is the complainants' strong punitive instincts and their active role in spreading the offending words and images to a wider audience.

¹⁶ "PAP Youth Member Quits over 'Racist' Online Posting." *AsiaOne*, November 18, 2011. <http://news.asiaone.com/News/AsiaOne+News/Singapore/Story/A1Story20111118-311261.html>.

¹⁷ "Pastor Apologises for Insensitive Comments." *AsiaOne*, June 15, 2010.

<http://news.asiaone.com/News/AsiaOne%2BNews/Singapore/Story/A1Story20100615-222103.html>.

¹⁸ Terence Chong. "Christian Evangelicals and Public Morality in Singapore." *ISEAS Perspective* 17 (2014): 1–11.

¹⁹ Lai, "Religious Diversity in Singapore."

In most cases, the offending words and images were initially on smaller online forums, personal blogs and Facebook profiles of relatively unknown individuals. In the two 2010 cases involving Christian preachers, the offending statements were not addressed to the public at large, but to their own congregations. One sermon was posted on the church's website, while the other was on a compact disk. They would have remained in these semi-private spheres but for individuals who took offence and uploaded them to more public platforms such as YouTube. The responses of these citizens were paradoxical. On the one hand, they called for police intervention on the grounds that the messages were inflammatory. On the other, they sought greater publicity for the same messages, ensuring that more Singaporeans would feel the sting. If the offending messages were inflammatory, the complainants' response was like simultaneously calling the fire department and fanning the flames. This is an illustration of the symbolic goals of offence-taking: capitalising on indignation is often more important than avoiding hurt.

Racial and religious offence has a unique place on Singapore's discursive landscape. The relevant legislation is sweeping, as noted above, and enforcement is strict. Even if offenders are not ultimately charged in court, the police are forced to treat each complaint seriously to avoid any suspicion that they are taking the offended ethnic group's feelings too lightly. In Singapore, the government is regarded as the ultimate icon of the nation-state's neutrality towards its various races and religions. Therefore, the way each complaint is handled is also invested with great symbolic importance. The authorities have little option but to treat each complaint seriously.

Whistle-blowers usually employ the discourse of civic consciousness and responsibility, professing to be protecting Singapore's multi-ethnic harmony. However, some appear to be gaming the system—taking advantage of Singapore's extremely low tolerance for offensive speech in order to trigger action against ideological opponents. This is not to suggest that the offence that is claimed is never authentic; or that the complainants are not sincere in wanting to police the norms of civility and mutual respect in Singapore's inter-ethnic relations. However, there may be an additional agenda at work, encouraging individuals and groups to make the most of any offence that they encounter.

Singapore's tight limits on offensive speech are intended to maintain a culture of peace and tolerance. But, its approach has been criticised by the United Nations'

special rapporteur on racism, Githu Muigai. At the end of an eight-day visit to Singapore in 2010, he recommended that the country review its restrictions on speech and assembly, “to allow Singaporeans to share their views on matters of ethnicity, to identify potential issues of discomfort and above all, work together to find solutions”.²⁰ He said that the protection of racial harmony should not be implemented at the cost of other human rights such as freedom of expression.

Singapore’s Foreign Ministry responded immediately, to “emphatically disagree”.²¹ It reiterated its long-standing position that Singapore’s exceptional conditions render international norms applicable only to the extent that they are deemed valid by Singapore’s own government. It concluded by saying, “We believe most Singaporeans agree with the government’s approach.” Thus, a rights-based approach is rejected; popular support is the preferred benchmark. With public opinion in turn influenced by a hegemonic state’s shaping of attitudes toward provocative speech, censorship in the name of preserving racial and religious harmony is unlikely to be challenged by the populace.

The government’s response suggests that it is not too troubled by the current dynamic. Being called in to mediate when people are upset by religious taunts seems an onerous burden to place on the police, but the government may consider this an acceptable cost to pay for its chosen model. After all, there are benefits as well. Conditioning the public to internalise a low threshold for insult and to reflexively reach for the law helps to perpetuate the sense of vulnerability, the distrust in social conciliation and the dependence on strong government that have served well as ideological supports for the PAP’s brand of illiberal democracy. It is in this light that recent incidents of religious insult online need to be read.

Indonesia’s Rising Religious Intolerance

²⁰ “Full Text of the Press Statement Deliver Ed by the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Mr. Githu Muigai, in Singapore.” Press Release. United Nations, April 28, 2010.

<http://www2.ohchr.org/english/issues/racism/rapporteur/docs/StatementVisitSingapore.pdf>

²¹ “MFA’s Response to the Press Statement of Mr Githu Muigai, UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance.” Press Statement. Ministry of Foreign Affairs Singapore, April 28, 2010.

http://www.mfa.gov.sg/content/mfa/media_centre/press_room/pr/2010/201003/press_20100428_01.html

Indonesia, the world's largest Muslim-majority country, is home to almost as many Muslims as the five largest Arab states combined. They account for some 87 percent of a total population of more than 250 million. However, since there are some parts of the country with a significant proportion or even a majority of non-Muslims, the national ideology of Pancasila was framed in inclusive terms. Islam is not the official religion. Under Pancasila, Catholics, Protestants, Hindus and Buddhists were given official recognition by the state along with Islam, with their sacred days declared public holidays. Confucianism was later added to the list of officially recognised belief systems. Pancasila's first principle is the belief in one God, making Indonesia officially monotheistic—but not Islamic.

Besides, Indonesian Islam has always been known for its internal diversity of viewpoints. The dominant strain has been pro-democratic. The most absolutist Islamic political parties have not done well at the polls, suggesting broad support for the separation of religious from political authority, despite a rise in private religiosity and an appetite for public shows of piety. Having undergone four turnovers of government through peaceful elections, the republic can be said to have consolidated its democracy. However, Indonesia has not been immune to the rise of religious intolerance. Between 1997 and 2001, at least 19,000 Indonesians were killed and around 1.3 million displaced in ethnic conflict. Some of this was the by-product of democratisation and decentralisation, which resulted in increased contestation between local actors at the provincial and district levels who banked on various communal and political identities.²²

Like Singapore and most other Asian countries, Indonesia has laws that were designed for stability but sometimes produce the opposite, by encouraging and facilitating expressions of intolerance. Indonesian hate spin flows across a mixed legal terrain that has been deeply etched by the liberal democratic reforms of the post-Suharto era, but that also still contains features untouched by modern human rights norms. The most problematic is the country's Blasphemy Law. Prohibiting any acts and interpretations that deviate from the basic teachings of a religion, it was adopted by Presidential decree in 1965, largely as a weapon against communism.²³ It applies

²² Edward Aspinall. "How Indonesia Survived." In *Democracy and Islam in Indonesia*, edited by Mirjam Kunkler and Alfred Stepan, 126–46. New York: Columbia University Press, 2013.

²³ Law No. 1/PNPS/1965 Concerning the Prevention of Religious Abuse and/or Defamation.

explicitly to those religions that are “embraced by the people of Indonesia”. The teachings and practices of any of the six recognised faiths (say, Protestantism) would not be deemed as a blasphemous deviation from one of the others (say, Catholicism). Professing religions that are clearly distinguished from the six faiths, such as Judaism, is not prohibited either.²⁴ The impact is therefore felt mainly by communities that practise alternative forms of Islam, such as the Ahmadiyah sect. Under Article 2 of the law, violators will first be instructed to stop their activities. Failure to comply can result in the banning or dissolution of the group and five years’ imprisonment (Article 3). Article 4 disallows the expression of views intended to discourage others from adhering to any monotheistic religion, which affects adherents of traditional belief systems.

Various groups have called for the abolition of the Blasphemy Law. However, the Constitutional Court upheld the statute in 2010.²⁵ The problem is that although Article 28I of the Constitution upholds freedom of religion as a fundamental human right, Article 28J allows restrictions on the exercise of religious freedom on grounds that include “religious values”. This means that some people’s religious expression could be suppressed if it is deemed offensive to the religious values of the majority—which is, of course, the opposite of religious freedom.

In addition to the Blasphemy Law, Article 156A of the Indonesian Criminal Code is also problematic. It prohibits deliberate and public expressions that abuse or stain a religion adhered to in Indonesia. Other regulations concerning the siting of places of worship, for example, add to the picture of a state that is willing to take sides in religious disputes instead of upholding the rule of law in an impartial manner. Such policies can empower the most intolerant elements in Indonesian politics. The Equal Rights Trust, a British group that has worked with Indonesian NGOs, has found “a strong connection between the continued existence of laws which restrict religious freedom and discriminate against religious minorities, and the rising influence of extremist factions which promote and engage in discrimination and violence against religious minorities”.²⁶

²⁴ ERT. Stakeholder Submission to the Universal Periodic Review of the Republic of Indonesia, 2011. London, UK: The Equal Rights Trust

²⁵ Melissa Crouch. “Judicial Review and Religious Freedom: The Case of Indonesian Ahmadis.” *Sydney Law Review* 34 (2012): 545–72.

²⁶ ERT. Stakeholder Submission to the Universal Periodic Review of the Republic of Indonesia, 2011. London, UK: The Equal Rights Trust, p. 2.

One landmark case involved a self-declared atheist in West Sumatra, Alexander Aan. He joined the “Minang Atheist” Facebook group, a network started by Indonesians living in the Netherlands, and became an administrator. He started posting his opinions stating why he did not think God exists.²⁷ In January 2012, a group from the community confronted Aan over a Facebook post that linked to a piece about the Prophet Muhammad having a sexual intercourse with his wife’s maid. Aan was later arrested and charged with violation of Article 156A. Although this charge did not stick, he was successfully prosecuted for violating Article 28(2) of Law 11/2008, concerning Electronic Information and Transactions. This section covers anyone who “who knowingly and without authority disseminates information aimed at inflicting hatred or dissension on individuals and/or certain groups” based on ethnicity, religion or race. The court found Ann guilty and sentenced him with two and a half years’ imprisonment and a fine of 100 million rupiah (around USD7,500).²⁸

A more systematic campaign has been waged against what hardline groups call the “Christianisation” of Indonesia. One relatively harmless case of offence-taking involved a 17-metre-tall sculpture, “Three Beauties”, by Balinese artist Nyoman Nuarta. It was erected in 2007 in front of an upmarket residential complex in Bekasi. As is typical with cases of manufactured offence, there was initially no indication that it would become the subject of controversy. Only three years after it was installed did Muslim groups adopt it as an injustice symbol. The statue depicted three women in the traditional dress of the Sundanese community, the dominant and largely Muslim ethnic group in West Java. It was in keeping the cultural and non-religious themes of Nyoman Nuarta’s body of work. None of this prevented the Islamist groups from proclaiming that the sculpture was another Christian provocation, since the women represented the Virgin Mary or, in some eyes, the Holy Trinity.²⁹ In a May 14, 2010, mass demonstration against Christianisation, protestors spray-painted the statue’s base and

http://lib.ohchr.org/HRBodies/UPR/Documents/session13/ID/ERT_UPR_IDN_S13_2012_EqualRightsTrust_E.pdf.

²⁷ Joe Cochrane. “Embrace of Atheism Put an Indonesian in Prison.” *The New York Times*, May 3, 2014. <http://www.nytimes.com/2014/05/04/world/asia/indonesian-who-embraced-atheism-landed-in-prison.html>.

²⁸ “Atheist Alexander Aan Gets of Prison.” *The Jakarta Post*, January 31, 2014.

<http://www.thejakartapost.com/news/2014/01/31/atheist-alexander-aan-gets-prison.html>.

²⁹ Hasyim Widhiarto. “Noted Sculptor Questions Logic behind Religious Blasphemy Accusations.” *The Jakarta Post*, June 20, 2010. <http://www.thejakartapost.com/news/2010/06/20/noted-sculptor-questions-logic-behind-religious-blasphemy-accusations.html>.

tried to wrap it up with cloth. The Bekasi mayor received a petition to remove the sculpture. The mayor relented, apparently because he lacked a strong Muslim political base and felt vulnerable to charges that he was being too sympathetic to Christians. The bronze and copper sculpture was dismantled and trucked off. More sustained and serious anti-Christian hate spin has been directed at church construction. Despite court backing for Christian communities to proceed with their church building plans, local authorities have been slow to conform.

The brunt of Indonesian hardline Muslim intolerance is borne not by Christians but by minority sects, in particular the Ahmadis. The Ahmadiyah community claims to have up to 400,000 members, but the Ministry of Religion puts the number at between 50,000 and 80,000.³⁰ Mainstream groups denounce it as heretical mainly because of its belief that the Prophet Muhammed was not the final recipient of divine revelation; its founder Ahmad claimed to have received a revelation and that he was the Messiah.

The worst incident took place in February, 2011, when three Ahmadis in Banten's Cikeusik district were attacked and killed by a mob after hardline groups circulated messages mobilising people to rise against the congregation. The incitement did not start there. The National Commission of Human Rights, Komnas HAM, had warned as early as 2006 that fatwas against Ahmadiyah by MUI, the Indonesian Ulema Council, amounted to hate speech. One national leader of the notorious Islamic Defenders Front (FPI) was seen on a YouTube video screaming at a congregation in Indonesian, "Kill! Kill! Kill! Kill Ahmadiyah!" The video caused a stir, but the government did nothing about it, despite the fact that the country has laws banning the incitement of religious hatred.³¹ On paper, Indonesian law protects minority rights. Law No. 40/2008 on the Elimination of Racial and Ethnic Discrimination forbids incitement to hatred. Article 156 of the Criminal Code provides for up to four years' imprisonment for expressions of hatred against racial, religious and other groups. But a pattern of selective enforcement results in ground realities where the law usually sides with riotous mobs over the rights of minorities.

³⁰ Crouch. "Judicial Review and Religious Freedom".

³¹ Bramantyo Prijosusilo. "A Year after the Murders in Cikeusik, Why Is the Govt Going Soft on Hard-Liners?" *Jakarta Globe*, February 6, 2012. <http://thejakartaglobe.beritasatu.com/archive/a-year-after-the-murders-in-cikeusik-why-is-the-govt-going-soft-on-hard-liners/>

Shia Muslims are another target. In 2012, a Muslim cleric on the island of Madura was handed a four-year prison sentence for blasphemy under Article 156(a) of the Indonesian Criminal Code.³² Tajul Muluk's crime was to teach Islam according to the Shia tradition, which differs from the Sunni doctrine professed by the majority of Indonesia's Muslims. He is considered a prisoner of conscience by Amnesty International. In addition, more than 100 members of his congregation were evicted from their homes. The episode appears to have been triggered by a decidedly non-spiritual family feud in 2004. Tajul Muluk's brother, Rois Al-Hukama, proposed to a woman named Halima but was turned down. Tajul had arranged a marriage for Halima with a young Shia man. The infuriated Rois, a member of the dominant Sunni majority, began agitating against his brother's Shia community. In 2006, 40 Sunni clerics and four police officers signed a statement condemning Shia Islam as heretical and urging the authorities to act against the Shia for blasphemy.

The local chapter of MUI adopted a fatwa prohibiting the practice and the spread of Shia teachings. Islamist militants escalated their campaign in 2011, burning houses, a place of worship and the madrasah. Only one militant was charged for the arson attack. Police instead advised Tajul and another cleric to leave the village. The chief prosecutor of the regency pressed for a ban on Tajul's teachings and initiated the blasphemy proceedings. His original sentence of two years' imprisonment, meted out by the district court, was doubled by a higher court on appeal. The Surabaya High Court said Tajul deserved an increased sentence for causing disharmony among Muslims. Local authorities such as the Sampang Regent abetted the anti-Shia groups' demands that they not be allowed back unless they converted to Sunni Islam.³³ Unable to work on their farms, the victims were forced into unemployment or low-paying jobs.³⁴

Rising religious intolerance constitutes one of the major threats to Indonesia's young democracy. It is all too easy to blame this on religiosity as such, as if being more devout is inherently incompatible with peaceful coexistence in a diverse and open society. However, most analysts who have conducted detailed studies on

³² "Indonesia: Release Tajul Muluk, Resolve Situation of Evicted Shi'a Community in East Java." *Amnesty International*, June 16, 2014. <http://www.amnesty.org.au/news/comments/34816/>

³³ "Isu Syiah Sampang Jadi Komoditas Politik Pilkada." *Tempo*, May 7, 2013. <http://nasional.tempo.co/read/news/2013/05/07/078478574/isu-syiah-sampang-jadi-komoditas-politik-pilkada>.

³⁴ "Secuil Hari Di Pengungsian Syiah." *Tempo*, July 10, 2014. <http://ramadan.tempo.co/read/news/2014/07/10/155592104/secuil-hari-di-pengungsian-syiah>

religion and conflict in Indonesia agree that most of the fault lies in the authorities' mishandling of hardline tendencies. Current laws and regulations are part of the problem.³⁵ Far from preserving harmony and order, the Blasphemy Law and associated regulations have been exploited as an opportunity for hate spin, which has in turn produced discrimination and outright violence against religious minorities.

The Mismanagement of Religious Offence

The neighbouring countries of Singapore and Indonesia are strikingly dissimilar in the ways that religious differences play out in politics. One major contrast is the level of violence. Indonesia has a culture of political violence, which is reflected in all kinds of conflict including those with a religious dimension. For a mix of reasons, violent demonstrations, riots and deadly hate crimes are almost non-existent in Singapore; religious frictions manifest in other ways.

Another difference is that Indonesian nationalism is in perpetual risk of being captured by its dominant religion, Islam, in a way that could not happen in Singapore, where no religion commands a majority of citizens. Although Islamist parties have repeatedly been defeated at the polls, ruling elites—especially since the Susilo Bambang Yudhoyono presidency—have shown a more religiously conservative and less liberal tilt, either out of ideological conviction or to appease hardline groups. In contrast, Singapore's hegemonic PAP tolerates no competition from—let alone capture by—any alternative power centre, including organised religion. It has always been conscious of the fact that religious and ethnic nationalism constitutes one of the most potent potential challenges to its dominance. Religious values are respected and have influenced government policies, notably its refusal to decriminalise homosexual sex. However, unlike in Indonesia, there is no question of religious groups dictating terms to political leaders. The Singapore government has used its all-powerful Internal

³⁵ Robin Bush. "Religious Politics and Minority Rights during the Yudhoyono Presidency." In *The Yudhoyono Presidency: Indonesia's Decade of Stability and Stagnation*, edited by Edward Aspinall, Marcus Mietzner, and Dirk Tomsa, 239–57. Singapore: Institute of Southeast Asian Studies, 2015; Sidney Jones. "Indonesian Government Approaches to Radical Islam Since 1998." In *Democracy and Islam in Indonesia*, edited by Mirjam Kunkler and Alfred Stepan, 109–25. New York: Columbia University Press, 2013; Rizal Panggabean and Ihsan Ali-Fauzi. *Policing Religious Conflicts in Indonesia*. Translated by Natalia Laskowska. Jakarta, Indonesia: Center for the Study of Religion and Democracy (PUSAD), Paramadina Foundation, 2015. <http://www.paramadina-pusad.or.id/pustaka/policing-religious-conflicts-in-indonesia-2>.

Security Act and other laws to nip in the bud any perceived attempt to blur the line between religious authority and political authority.

Due to these profound differences in context, insult laws have not had exactly the same effects in Singapore and Indonesia. Indonesia lacks full religious equality, in either legal or political terms. As a result, its laws against religious offence and even its laws against incitement have unequal effects depending on who's on which side of a conflict. Religious minorities and non-believers are punished for expression deemed offensive to the majority faith. Yet, members of the majority can, with total impunity, not just offend minorities but even engage in flagrant incitement to violence. In such a context—which is typical of many countries with a dominant religious group that unchecked by strong rule of law and equal rights—insult laws become hate spin weapons exploited by intolerant groups.

In Singapore, the state keeps all religions at a more or less equal arm's length away from the centre of political power. Therefore, insult laws have not tended to have a disproportionately positive or negative impact on any one religion. Any community in Singapore can invoke the laws prohibiting the wounding of religious feelings. In that sense, there is an equal right to be offended. Indeed, there is probably no major faith group whose members (or external supporters) have not at one time or another demanded state intervention against perceived offence. However, even if it is evenly distributed and applied, the right to take offence does not necessarily have pro-social consequences. Although the Singapore incidents are of relatively mild intensity, involving no bloodshed or mob violence, they are structurally similar to a certain type of challenge to freedom of expression that is evident in more severe forms in Indonesia and elsewhere in Asia. Jarring, unsettling expression is an inevitable cost of liberty. When this is rejected and the state considers hurt religious feelings to be sufficient grounds for legal intervention, the inherent subjectivity of the offence allows the law to be abused.

The most obvious problem is its cost to free speech. A less discussed issue is its effect on religious tolerance. Within practically every religious community, there are competing tendencies: at one extreme, there are those with more absolutist and exclusive notions of what it means to live religiously; at the other, those with a more cosmopolitan religious identity that is respectful of diversity. Therefore, when any provocative expression surfaces, no community speaks with one voice. All members of

a faith may agree that a particular film insults them and is in poor taste. But prescriptions will vary. Some demand censorship and prosecution of the filmmakers; and a may favour violent extrajudicial vengeance. Others prefer peaceful protest, consumer boycotts and counter-speech. Any secular and democracy—which both Singapore and Indonesia claim to be—has a legitimate interest in nudging its people of faith toward the more inclusive and cosmopolitan end of the spectrum. States should thus develop a culture in which communities settle differences peacefully through deliberation and civic responses, with coercive government action reserved as a last resort, and vigilante violence taken off the table of legitimate responses.

The problem with religious offence laws is that they have the opposite effect, disproportionately empowering the leaders of the most intolerant factions within a religious community. These laws place the state's most powerful resources at the disposal of those who choose to take rowdy offence, instead of their co-religionists urging live-and-let-live tolerance and more sober means of registering their unhappiness. In the resulting culture of offendedness, intolerant spokesmen for a religion gain a public profile that exaggerates how representative they actually are. This gives them disproportionate influence over the agenda for the nation's public discourse concerning issues related to religious values. A culture of offendedness can generate a race to the bottom: once spokesmen realise the game that is being played, they compete with increasingly strong displays of righteous indignation.

Cultural divisions are a problem for democracy, because intense group loyalties can undermine the required sense of reciprocity and toleration that open and diverse societies need to live with difference. People will only accept democratic outcomes, including when they lose, if they feel that others are making choices in a reasonable and restrained manner, with some shared commitment to protect the common good.³⁶ There is no consensus, either among social theorists or policy makers, about how democracies should respond to cultural differences. A postmodern view would treat identity as socially constructed, thus opening the door to proactive social policies that encourage citizens to give primacy to their shared citizenship, and not to exclusive or absolute identities. In contrast, those with a more primordialist view, who treat ethnic

³⁶ Robert Putnam. *Making Democracy Work: Civic Traditions in Modern Italy*. Princeton, New Jersey: Princeton University Press, 1993.

and religious identity as fixed, would tend to prefer policy responses that try to limit frictions between different communities. Laws against the wounding of religious and ethnic feelings arise from this latter view of society, as well as from overriding concern with public order. Even on its own terms, though—leaving aside free speech concerns—insult laws backfire.

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