



Interpretation and Application of Criminal Law Regarding Blasphemy Under Article 156a of the Criminal Code

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Article's Information	Abstract
<p>keywords:</p> <p>Blasphemy, legal interpretation, criminal law.</p> <p>DOI :</p> <p>https://doi.org/10.25041/ip.v5i1.3552</p>	<p><i>The offense of blasphemy is complex and confusing due to its three distinct definitions: offense according to religion, offense against religion, and offense related to religion. This lack of clarity results in no clear boundaries for defining what constitutes blasphemy. This article explores the legal interpretation of blasphemy through an analysis of various court decisions and the opinions of religious leaders. Utilizing normative research methods complemented by field data from interviews with religious leaders, the study reveals that Article 156a of the Criminal Code lacks a precise definition of blasphemy, leading to broad and varied interpretations. The subjectivity of determining blasphemy is evident, as it often depends on the identity of the offended party. Additionally, resolving blasphemy cases, such as those involving deviant sects, necessitates theological dialogue rather than immediate recourse to punitive measures. The article notes that judicial decisions in blasphemy cases frequently rely on the testimony of religious experts, sometimes without sufficient consideration of the expert's qualifications or the quality of their explanation of blasphemy.</i></p>

A. Introduction

Blasphemy in Indonesia is intricately linked to the country's diverse social norms and cultures, resulting in a broad and complex definition. The challenge in defining blasphemy arises from the difficulty in measuring the factor of irritation. Additionally, the emergence of new religious teachings or sects claiming affiliation with established religions often leads to disputes about the authenticity of these sects' teachings and their impact on the original religious



doctrines.¹ In such blasphemy cases, which primarily involve hostility through the abuse or desecration of a religion, judicial interpretations are influenced by expert opinions on the religion deemed desecrated and the judge's own beliefs.

Blasphemy is generally defined as an act or statement that shows contempt or disrespect toward God, a religion, or a sacred belief. In certain jurisdictions, this includes actions or speech intended to undermine reverence for God, disparage His attributes, or detract others from religious devotion. This can encompass verbal or written denouncements made with malicious intent, including the destruction of sacred texts and statements questioning religious doctrines.²

According to Article 156a of the Criminal Code (*KUHP*), an individual may face imprisonment for up to five years if they "intentionally, in public, express feelings or perform actions: (a) that are inherently hostile to, misuse, or desecrate any religion professed in Indonesia; or (b) with the intent to prevent any person from embracing any religion based on the beliefs of the Almighty God." This provision does not include a warning clause, meaning that those found guilty of blasphemy are subject to a maximum penalty of five years in prison.

Numerous blasphemy cases have proceeded to court in Indonesia. According to records from *YLBHI*, between January and early May 2020, there were 38 such cases.³ Article 156a of the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana* or *KUHP*) specifies that an individual can be sentenced to up to five years in prison if they "intentionally, in public, express feelings or perform acts: (a) that are inherently hostile to, abuse, or desecrate any religion professed in Indonesia; or (b) with the intent to prevent any person from embracing any religion based on the belief in Almighty God." This provision does not include a warning clause, meaning those convicted of blasphemy face a maximum penalty of five years' imprisonment. Blasphemy generally encompasses actions or speech deemed contrary to sacred elements such as holy books, religious leaders, or religious symbols.

The interpretation of blasphemy is often associated with writings and speech perceived as opposing established religions.⁴ The ambiguity of the blasphemy article creates a potential for misuse by individuals or groups feeling aggrieved, and it may be exploited to suppress critical views of certain religious groups, depending on prevailing interests. In practice, blasphemy cases frequently result in judicial decisions based on interpretations that may differ from those of individuals or groups holding majority religious beliefs.⁵

Throughout the application of the blasphemy law in Indonesia, numerous cases have reached the courts, and offenders have served their sentences. Some cases involve purely criminal matters and law enforcement, while others intersect with political and non-legal concerns. For instance, Article 156a was applied in the case of HB Jassin in 1968, who was imprisoned for one year for his short story "*Langit Makin Mendung*," which was deemed offensive to Islam. Similarly, in 1990, Arswendo Atmowiloto was sentenced to five years in prison under the same article for publishing a magazine poll that controversially ranked the Prophet Muhammad SAW. Under President Megawati in 2003, a blasphemy case also emerged.⁶

The blasphemy law engenders confusion due to its potential to be defined in three ways: as an offense according to religion, an offense against religion, or an offense related to religion. This ambiguity raises questions about whether an act pertains to the Prophet, holy books, other

¹ Diah Gustiniati Maulani, *Analisis Pertanggungjawaban Pidana dan Dasar Pemidanaan Terhadap Pelaku Tindak Pidana Penodaan Agama Di Indonesia*, *Fiat Justitia Jurnal Ilmu Hukum*, Vol 7, No. 1, 2017, hal. 1.

² Anak Agung Ayu Nanda Sarswati, *Perkembangan Diskursus Perlindungan Agama Dari Penghinaan dan Kritik Dalam Aturan Penodaan Agama*, *Arena Hukum*, Vol 12, No. 3. 2019. hal. 43

³ Lihat di <https://ylbhi.or.id/publikasi/laporan/laporan-ylbhi-atas-kasus-penodaan-agamasepanjang-tahun-2020/>

⁴ Pulton dkk, *Panduan Pemantauan Tindak Pidana Penodaan Agama dan Ujaran Kebencian*, Jakarta, ILRC, 2012, hal. 44.

⁵ Kurnia Dewi Anggraeny, *Penafsiran Tindak Pidana Penodaan Agama Dalam Perspektif Hukum*, *Era Hukum*, Vol 2, No. 1, 2017, hal. 281.

⁶ Setara Institute, *Rezim Penodaan Agama 1965-2017*, Ringkasan Eksekutif Laporan Riset Tematik Kebebasan Beragama dan Berkeyakinan, Setara Institute, Jakarta, 2017. hal. 3.

religious institutions, or God, and highlights the need for clearer boundaries to determine what constitutes blasphemy and how it should be prosecuted.

This research is a normative legal study supported by field data sources, specifically interviews with religious leaders. The data is then analyzed qualitatively and presented to address the research problem. The purpose of this study is to conduct an in-depth examination of both the legal provisions and the reality surrounding the implementation of the interpretation of Article 156a of the Criminal Code regarding blasphemy.

B. Discussion

1 Judges' Legal Interpretation of the Crime of Blasphemy Article 156a of the Criminal Code

a. Judges' Interpretation of Blasphemy in Relation to Deviant Cults

In cases involving deviant sects, judges rely on the opinions of relevant religious experts whose teachings align with the doctrines of the sect in question. For instance, in the case of Paruru, as outlined in Decision Number 2/Pid.Sus/2020/PN Mak, the defendant propagated teachings that diverged from established Islamic practices. These deviations included advocating for prayers performed only twice a day, the notion that facing the qibla during prayer is unnecessary, and the belief that fasting is not obligatory. The judge adjudicated the defendant guilty of blasphemy based on testimony from Islamic scholars who clarified that prayer is a fundamental pillar of Islam, mandatory for all Muslims who have reached puberty. The scholars referenced Quranic verses—Surah An-Nur, verse 56, and Surah Al-Baqarah, verse 43—as well as the hadith "Pray as I pray" (HR. Bukhari), which underscores the requirement to face the qibla and the division of prayer into five daily occurrences: Shubuh, Dhuhr, Asr, Maghrib, and Isha.

Similarly, in Decision Number 64/Pid.Sus/2021/PN Bik, the case of Anthon Kafiari and Theo Wanma involved the dissemination of deviant teachings contrary to Protestant Christianity. The defendants claimed that Apus Manseren Kayan Byak—a figure depicted as an elderly man with a white beard, bare chest, and holding two sticks—was the Lord God Yahweh or the deity of the Papuan people, who purportedly created the heavens and the earth and gave birth to Konor Manarbeuw, also known as Jesus Christ. Additionally, the defendants introduced altered worship procedures diverging from traditional Protestant Christian practices. The judge declared the defendants guilty of blasphemy based on the testimony of Protestant Christian scholars. These experts emphasized that Christian beliefs should not be conflated with other teachings, nor should Jesus be equated with Apus Manseren Kayan Byak. They affirmed that the Lord's Prayer, as taught in the Gospel of Matthew, Chapter 6, is a precise and immutable prayer directly imparted by Jesus Christ.

Based on the established facts, the case at hand involves the dissemination of deviant or heretical teachings, as evidenced by expert opinions indicating that the defendant's actions are inconsistent with the recognized religious teachings in Indonesia. In this context, the author argues that Article 156a of the Criminal Code may not be the most appropriate legal framework for addressing this issue. Instead, alternative legal mechanisms related to the propagation of heresy, as outlined in Articles 1, 2, and 3 of Law No. 1/PNPS of 1965, should be considered.

Article 1 of Law No. 1/PNPS of 1965 stipulates: *Every person is prohibited from deliberately in public telling, advocating or seeking public support, to carry out an interpretation of a religion adhered to in Indonesia or to carry out religious activities that resemble religious activities from that religion, which interpretation and activities deviate from the main teachings of that religion*".

Article 2 provides that if a sect is determined to be spreading heretical or deviant teachings, it will receive a stern warning to cease such activities through a joint decision by the Minister of Religious Affairs, the Attorney General, and the Minister of Home Affairs. Should these

activities be organized, the President, based on the recommendations of the Minister of Religious Affairs, Attorney General, and Minister of Home Affairs, may dissolve the organization. Continued adherence to deviant practices can result in prosecution, with a maximum imprisonment of five years as stipulated in Article 3.

Article 156a of the Criminal Code is derived from Article 4 of Law No. 1/PNPS of 1965. Consequently, the author suggests that the actions of the defendant, which involve teachings or sects deemed deviant by recognized religions in Indonesia, should primarily be addressed through non-criminal mechanisms. The resolution of such cases should ideally involve mediation or dialogue rather than criminal prosecution. The judge, in determining the appropriate punishment, should consider regulations that preceded Article 156a of the Criminal Code. Given that deviant sects often arise from misunderstandings or differing interpretations of religious teachings, disputes should be resolved through dialogue or mediation at the police level, rather than through criminal law.

b. Judges' Interpretation of Blasphemy as Related to Error in Performing Religious Rituals

In cases involving mistakes in performing religious rituals, judges often interpret such actions as blasphemy based on the testimony of religious experts. However, it is crucial to assess whether errors stemming from ignorance should be classified as blasphemy against religion. For instance, in Decision Number 14/Pid.B/2020/PN Ende, Amrin Ridwan was convicted for attending Mass at St. Martinus Roworeke Church, where he received the Holy Host despite not being Catholic. This action, though it violated Catholic norms, was committed in the context of mourning his deceased uncle, and it is argued that the defendant's actions were not intended to insult or desecrate the Catholic faith.

The author posits that the defendant's actions, which caused distress to the Catholic community and breached sacred Catholic rules, might be considered blasphemy. However, a more nuanced interpretation is necessary, as the definition of blasphemy lacks clear boundaries. According to Article 4 of Law No. 1 PNPS, which later became Article 156a of the Criminal Code, a criminal offense related to blasphemy requires an intention to cause hostility or insult. Thus, the author argues that an act must be driven by intent to desecrate religion to be classified as blasphemy.

In this case, the defendant's participation in receiving the Holy Host was inconsistent with Catholic teachings, which reserve this rite for Catholics who are prepared in faith. Witness Gabriel Gano testified that the defendant entered the church to assist with his uncle's funeral and did not intend to desecrate the religious ceremony. This testimony suggests a lack of malicious intent. The author believes that the defendant's ignorance and the circumstances of grief should be considered, emphasizing the need for additional context from the defendant's family.

The Holy Host is regarded as the embodiment of the body and blood of Jesus, treated with utmost respect by the Church. Eligibility to receive the Holy Host is reserved for Catholics who have undergone first communion and are familiar with Catholic teachings. In cases where individuals not authorized to receive the Holy Host do it, the Church should address the issue through correction and explanation, rather than resorting to criminal law.⁷

c. Judges' Interpretation of Blasphemy in Relation to Wrong Speech and Hostile Acts

In cases involving allegations of blasphemy related to speech errors, judges often rely on religious expert testimony to interpret the actions in question. For instance, in the Meliana case (Decision Number 1612/Pid.B/2018/PN Medan), the defendant requested that the volume of mosque calls to prayer be reduced, arguing that it disturbed her comfort. Religious experts

⁷ Wawanacara dengan Romo Petrus Sukino, tanggal 23 Maret 2024 di Gereja Katedral Palembang.

testified that the defendant's actions constituted blasphemy against Islam, citing foundational Islamic texts such as the Quran and Hadith, as well as the opinions of scholars regarding the call to prayer and its significance. The MUI Fatwa issued in response was based on Islamic legal principles, including *ijma* (consensus), *qiyas* (analogy), and other legal arguments. Criminal law experts also considered that the defendant's actions met the elements of Article 156a of the Criminal Code.

The author argues that while the defendant's actions were inappropriate, given that the mosque existed prior to the defendant's residence in the area, labeling them as blasphemy may be inaccurate. The defendant's request to lower the volume of the Adhan was not intended to insult or show hostility towards Islam. Instead, it was a complaint about noise, not an act of blasphemy. To properly determine the intent of blasphemy, expert testimony from a linguist or other relevant expert might be necessary to clarify whether the defendant's actions were truly intended to desecrate Islam.

Similarly, in the case of Dedi Supriadi (Decision Number 127/Pid.B/2020/PN Sbs), where the defendant damaged a statue used for Buddhist worship at Vihara Tri Dharma in Sambas District, the court's interpretation as blasphemy is questioned. The Buddhist expert testified that the acts of blasphemy typically involve severe offenses such as murder or theft, and that damaging the statue would primarily result in negative karma rather than blasphemy. Despite this, the judge concluded that the defendant's actions constituted blasphemy rather than vandalism under Article 406, paragraph (1) of the Criminal Code. This raises questions about the criteria the judge used to interpret blasphemy, given that the expert testimony did not support such a classification.

2. Interpretation of the Blasphemy Article from the Opinion of Religious Leaders

a. Blasphemy in the Opinion of Protestant Christian Religious Leaders

In Christian teaching, the concept of blasphemy is not traditionally emphasized in the same way as in some other religious contexts. Christian doctrine generally does not recognize blasphemy as a formal term or concept, particularly because the emphasis is placed on love and forgiveness rather than retaliation. Hostile attitudes towards Christianity, such as destruction of the Bible, abuse of Christian symbols, or disrespect towards Christian teachings, may occur due to ignorance rather than deliberate intent to insult. Jesus' teachings focus on loving one another and addressing misunderstandings with compassion.

Regarding cults or deviant sects, a cult is typically viewed as a group that deviates fundamentally from core Christian principles, such as the doctrine of the Trinity, which includes God the Father, God the Son, and God the Holy Spirit. When a group or individual's beliefs diverge from these fundamental principles, the church does not automatically condemn them. Instead, it seeks to engage in dialogue and provide clarification on biblical understanding. The church's approach involves communication and explanation rooted in love, avoiding coercion or pressure, and aiming to address deviations through respectful and educative interactions rather than judgment. This method fosters understanding and reconciliation rather than conflict.⁸

b. Blasphemy According to the Opinions of Islamic Religious Leaders

Blasphemy is defined as an act or behavior carried out by an individual or group with full awareness, or as instructed by others, that involves hostility, harassment, or degradation of a religion, with a conscious intent to insult or demean religious beliefs. For instance, Lina Mukherjee's act of eating pork while saying "Bismillah," a phrase from the Quran, is considered blasphemous because it combines Islamic expressions with actions that violate Islamic dietary

⁸ Wawancara dengan Pendeta Wesly Ginting, tanggal 16 Februari 2024 di Gereja Batak Karo Protestan Palembang.

laws.⁹ Similarly, Basuki Tjahaja Purnama's use of Quranic verses in his 2017 Jakarta gubernatorial election speech is viewed as blasphemous by some because he was perceived as unqualified to use these sacred texts, given that he did not adhere to Islam. In assessing cults or deviant sects, the Indonesian Ulema Council (*MUI*) employs ten criteria to determine whether a group deviates from mainstream religious teachings and practices:¹⁰

- 1) Denying one of the six pillars of Islam.
- 2) Believing and/or following a belief (*aqidah*) that is not in accordance with the Al-Quran and Sunnah.
- 3) Believing that revelation came after the Al-Quran.
- 4) Denying the authenticity and/or the truth of the contents of the Al-Quran.
- 5) Interpreting the Al-Quran that is not based on the rules of interpretation.
- 6) Denying the position of the Prophet's hadith as a source of Islamic teachings.
- 7) Insulting, harassing and/or denigrating the Prophets and Messengers.
- 8) Denying the Prophet Muhammad as the last Prophet and Messenger,
- 9) Changing, adding, and / or reducing the points of worship that have been determined by sharia, such as Hajj not going to the temple, not praying the obligatory five daily prayers.
- 10) Disbelieving fellow Muslims without *shar'i* (Islamic) arguments, such as disbelieving Muslims just because they are not of their group.

c. Blasphemy in the Opinion of Catholic Religious Leaders

Blasphemy, in essence, constitutes an act or behavior that undermines the sanctity of the Catholic faith, leading to the insult and disparagement of Catholicism. An illustrative example provided was the inability of an individual to accept the Holy Host as the pinnacle of Catholic faith, along with the prescribed procedure for its reception, which involves consuming it directly. The Holy Host is revered in Catholicism as a sacred symbol of Christ's presence. Nevertheless, according to the interviewee, Catholics lack a specific benchmark for categorizing blasphemy.¹¹

Regarding the matter of cults and their categorization within the community, Catholicism defines cults as doctrines that deviate from established Catholic teachings. Fundamental Catholic doctrines include the resurrection of Jesus as the core truth and salvation for Christians, and the acknowledgment of the Trinity: God the Father, God the Son, and God the Holy Spirit. The disturbances related to cults in society are generally perceived by Catholics as stemming from ignorance and erroneous teachings. Consequently, it is considered sufficient to address these issues through renewed pastoral guidance aimed at realigning individuals with Church doctrine.¹²

d. Blasphemy in the Opinion of Buddhist Religious Leaders

Buddhism does not recognize the concept of blasphemy. However, Buddhism inherently discourages actions that mock other religions, as such behavior is seen as a form of disrespect towards one's own beliefs. While the Buddha did not explicitly teach the concept of blasphemy, he advocated for respect towards all religions. In situations where Buddhism is subjected to ridicule, the interviewee emphasized that individuals are responsible for their own karma, negating the need for police reports or legal interventions. Buddhism does not provide specific criteria for categorizing blasphemy.¹³

Regarding cults and their classification, the Buddha's teachings indicate that doctrines deviating from the Scriptures accepted by Buddhists are considered erroneous. In such cases,

⁹ Wawancara dengan Ustadz Nurkholis, tanggal 06 Maret 2024 di Kantor MUI Sumatera Selatan.

¹⁰ *Ibid.*

¹¹ Wawancara dengan Romo Petrus Sukino, tanggal 23 Maret 2024 di Gereja Katedral Palembang.

¹² *Ibid.*

¹³ Wawancara dengan Suhu XienMing, tanggal 25 Maret 2024 di Vihara Samantabhadra Palembang.

the Buddha advised wisdom and discernment. The interviewee noted that the Buddha did not provide a formal categorization of cults. In the presence of cults or teachings that diverge from Buddhist doctrine, Buddhists are encouraged to avoid them and exercise wisdom. Monasteries offer guidance when deviations from Buddhist teachings occur, but they do not impose corrections, as individuals must navigate their own karma. Overall, the Buddha's teachings emphasize avoiding actions that incite hatred.¹⁴

e. Blasphemy in the Opinion of Hindu Religious Leaders

According to the informant, blasphemy in the context of Hinduism involves actions such as reviling, insulting, or damaging places of worship or sacred texts. The Vedas, which serve as the primary scriptures in Hinduism, are regarded as guiding principles for leading a virtuous life and avoiding evil. However, Hinduism does not formally recognize the concept of blasphemy, as it believes in the principle of karma, where one's actions are met with consequences in future lives. Hinduism exhibits flexibility in adapting to local cultural practices. For instance, Hinduism practiced in Bali differs from that in Java, and Hindu Kaharingan in Kalimantan also reflects regional variations. The informant emphasized that while Hinduism accommodates local customs, it remains rooted in the worship of Hindu deities and adherence to the Vedas. The interviewee also indicated that Hinduism lacks a definitive standard for addressing issues related to cults.¹⁵

C. Conclusion

Based on the analysis of five court decisions concerning the blasphemy provisions of Article 156a of the Criminal Code, it is evident that judges often rely on the testimony of religious experts when adjudicating these cases. The consideration of expert testimony is particularly crucial in cases involving cults, as the determination of what constitutes a cult typically requires specialized knowledge from religious authorities. However, in cases originating from speech, such as the Meliana case—where an individual requested a reduction in the volume of the Adhan due to personal discomfort—there is a need for additional forms of expert testimony beyond religious experts. In these instances, the judge's decisions have not consistently incorporated other relevant laws and regulations, such as the *PNPS* Law No.1/1965, which predates and influences Article 156a of the Criminal Code.

The author argues that the *PNPS* Law No.1/1965 should be referenced in cases involving cults or deviant sects, as it provides regulations on such matters. Interviews with religious leaders reveal that interpretations of blasphemy vary significantly, indicating that the concept is broadly defined. According to the religious leaders interviewed, the interpretation of Article 156a of the Criminal Code varies, with Islamic leaders providing specific criteria for identifying heretical or deviant sects. In contrast, leaders from other religious traditions lack such benchmarks and view deviant practices as ignorance rather than criminal behavior, advocating for dialogue rather than legal action.

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