

**KORELASI HUKUM DOCUMENT ON HUMAN FRATERNITY FOR WORLD PEACE
AND LIVING TOGETHER DENGAN UNDANG-UNDANG REPUBLIK INDONESIA
NOMOR 24 TAHUN 2007 TENTANG PENANGGULANGAN BENCANA**

Tomy Michael

Fakultas Hukum

Universitas 17 Agustus 1945 Surabaya

tomy@untag-sby.ac.id

Abstrak

Document on Human Fraternity menjadi sangat penting karena didalamnya mengatur secara tegas apa hakikat Tuhan. Pentingnya pemahaman akan Tuhan akan menjadikan suatu peraturan perundang-undangan mengarah pada keadilan hukum. Di dalam Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan (UU No. 12-2011) bahwa tiap peraturan perundang-undangan wajib ada frasa "Dengan Rahmat Tuhan Yang Maha Esa". Document on Human Fraternity dapat dijadikan sebagai bagian dalam pembentukan peraturan perundang-undangan di Indonesia. Document on Human Fraternity merupakan norma desiderata yang universal
Kata kunci: universal, Tuhan, keadilan hukum

A. Pendahuluan

Document on Human Fraternity For World Peace And Living Together ditandatangani pada 4 Februari 2019 oleh Paus Fransiskus dan Imam Besar Al-Azhar Ahmad Al-Tayyeb di Abu Dhabi.¹ Document on Human Fraternity menjadi sangat penting karena didalamnya mengatur secara tegas apa hakikat Tuhan. Pentingnya pemahaman akan Tuhan akan menjadikan suatu peraturan perundang-undangan mengarah pada keadilan hukum. Di dalam Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan (UU No. 12-2011) bahwa tiap peraturan perundang-undangan wajib ada frasa "Dengan Rahmat Tuhan Yang Maha Esa".²

¹ Bagian pendahuluan menyatakan bahwa:

"Faith leads a believer to see in the other a brother or sister to be supported and loved. Through faith in God, who has created the universe, creatures and all human beings (equal on account of his mercy), believers are called to express this human fraternity by safeguarding creation and the entire universe and supporting all persons, especially the poorest and those most in need. This transcendental value served as the starting point for several meetings characterized by a friendly and fraternal atmosphere where we shared the joys, sorrows and problems of our contemporary world. We did this by considering scientific and technical progress, therapeutic achievements, the digital era, the mass media and communications. We reflected also on the level of poverty, conflict and suffering of so many brothers and sisters in different parts of the world as a consequence of the arms race, social injustice, corruption, inequality, moral decline, terrorism, discrimination, extremism and many other causes. From our fraternal and open discussions, and from the meeting that expressed profound hope in a bright future for all human beings, the idea of this Document on *Human Fraternity* was conceived. It is a text that has been given honest and serious thought so as to be a joint declaration of good and heartfelt aspirations. It is a document that invites all persons who have faith in God and faith in *human fraternity* to unite and work together so that it may serve as a guide for future generations to advance a culture of mutual respect in the awareness of the great divine grace that makes all human beings brothers and sisters."

² Secara historis dalam aturan tingkat undang-undang, frasa "beriman dan bertakwa terhadap Tuhan Yang Maha Esa" muncul pertama kali sebagai tujuan pendidikan dalam Undang-Undang Republik Indonesia Nomor 2 Tahun 1989 tentang Sistem Pendidikan Nasional (UU No. 2-1989), Undang-Undang Nomor 4 Tahun 1950 tentang Dasar-dasar Pendidikan dan Pengajaran di Sekolah (UU No. 4-1950). Pada awal tahun 1960-an muncul Undang-Undang Republik Indonesia Nomor 22 Tahun 1961 tentang Perguruan Tinggi (UU No. 22-1961). Tujuan pendidikan dalam UU No. 22-1961 tersebut mencerminkan arah politik pendidikan di era Soekarno: sosialisme. Korelasi makna frasa "beriman dan bertakwa

Document on Human Fraternity ini apabila dikorelasikan dengan Undang-Undang Republik Indonesia Nomor 24 Tahun 2007 tentang Penanggulangan Bencana (UU No. 24-2007) dapat dikategorikan bagian dari bencana sosial.

B. Pembahasan

Bencana sosial dalam Pasal 1 angka 4 UU No. 24-2007 dijelaskan sebagai bencana yang diakibatkan oleh peristiwa atau serangkaian peristiwa yang diakibatkan oleh manusia yang meliputi konflik sosial antarkelompok atau antarkomunitas masyarakat, dan teror. Tetapi dalam perkembangannya terdapat Pasal 1 angka 1 Undang-Undang Republik Indonesia Nomor 7 Tahun 2012 tentang Penanganan Konflik Sosial (UU No. 7-2012) bahwa perseteruan dan/atau benturan fisik dengan kekerasan antara dua kelompok masyarakat atau lebih yang berlangsung dalam waktu tertentu dan berdampak luas yang mengakibatkan ketidakamanan dan disintegrasi sosial sehingga mengganggu stabilitas nasional dan menghambat pembangunan nasional. Artinya kedua undang-undang ini memiliki keterkaitan karena bencana sosial meliputi konflik sosial.

Ketika kedua undang-undang ini ditelaah lebih lanjut maka terdapat pasal yang memiliki kesamaan yaitu:

Pasal 26 ayat (1) UU No. 24-2007 bahwa:

Setiap orang berhak:

- a. mendapatkan perlindungan sosial dan rasa aman, khususnya bagi kelompok masyarakat rentan bencana;
- b. mendapatkan pendidikan, pelatihan, dan ketrampilan dalam penyelenggaraan penanggulangan bencana.
- c. mendapatkan informasi secara tertulis dan/atau lisan tentang kebijakan penanggulangan bencana.
- d. berperan serta dalam perencanaan, pengoperasian, dan pemeliharaan program penyediaan bantuan pelayanan kesehatan termasuk dukungan psikososial;
- e. berpartisipasi dalam pengambilan keputusan terhadap kegiatan penanggulangan bencana, khususnya yang berkaitan dengan diri dan komunitasnya; dan
- f. melakukan pengawasan sesuai dengan mekanisme yang diatur atas pelaksanaan penanggulangan bencana.

Sedangkan Pasal 6 ayat (1) UU No. 7-2012 menjelaskan bahwa:

Pencegahan Konflik dilakukan dengan upaya:

- a. memelihara kondisi damai dalam masyarakat;
- b. mengembangkan sistem penyelesaian perselisihan secara damai;
- c. meredam potensi Konflik; dan
- d. membangun sistem peringatan dini.³

terhadap Tuhan Yang Maha Esa" dengan frasa "DENGAN RAHMAT TUHAN YANG MAHA ESA" tidak dapat dipisahkan karena frasa pertama bagian dari frasa kedua. Frasa "DENGAN RAHMAT TUHAN YANG MAHA ESA" merupakan kesatuan bagi seluruh umat makhluk hidup tanpa terkecuali terlepas seorang manusia mengakui keberadaan Tuhan Yang Maha Esa atautidak. Lebih lanjut dalam Tomy Michael, *Memaknai Frasa "Dengan Rahmat Tuhan Yang Maha Esa" Dalam Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan*, Jurnal Hukum Staatsrechts Fakultas Hukum Universitas 17 Agustus 1945 Jakarta

³ Berlandaskan alinea keempat dari pembukaan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (UUD NRI 1945, secara jelas bahwa negara wajib melindungi Warga Negara Indonesia. Tentu saja ketika munculnya konflik tidak bermula dari kepentingan masyarakat itu sendiri melainkan

Maka kedua undang-undang tersebut sebetulnya memiliki teleologi yang sama dengan Document on Human Fraternity dimana terdapat suatu klausul "All this contributes to a general feeling of frustration, isolation and desperation leading many to fall either into a vortex of atheistic, agnostic or religious extremism, or into blind and fanatic extremism, which ultimately encourage forms of dependency and individual or collective self-destruction". Seringkali bencana sosial dan konflik sosial bersumber akan adanya Tuhan yang diinterpretasikan secara subjektif. Ketika subjek hukum berusaha memaknai Tuhan sesuai nalar berpikirnya.

Dalam Document on Human Fraternity terdapat poin penting yaitu:

"This Document, in accordance with previous International Documents that have emphasized the importance of the role of religions in the construction of world peace, upholds the following:

1. The firm conviction that authentic teachings of religions invite us to remain rooted in the values of peace; to defend the values of mutual understanding, *human fraternity* and harmonious coexistence; to re-establish wisdom, justice and love; and to reawaken religious awareness among young people so that future generations may be protected from the realm of materialistic thinking and from dangerous policies of unbridled greed and indifference that are based on the law of force and not on the force of law;

dapat dipengaruhi kebijakan yang dibuat oleh pemangku kepentingan. Apabila melihat Pasal 2 UU No. 7-2012, penanganan konflik mencerminkan asas:

- a. kemanusiaan;
- b. hak asasi manusia;
- c. kebangsaan;
- d. kekeluargaan;
- e. kebhinneka-tunggal-ikaan;
- f. keadilan;
- g. kesetaraan gender;
- h. ketertiban dan kepastian hukum;
- i. keberlanjutan;
- j. kearifan lokal;
- k. tanggung jawab negara;
- l. partisipatif;
- m. tidak memihak; dan
- n. tidak membedakan.

Dari hal inilah, pengaruh Tuhan mendapat-kan bagian cukup besar yaitu terlihat dari munculnya asas kemanusiaan. Secara konteks, kemanusiaan dapat diartikan sebagai seluruh manusia yang pada dirinya melekat sifat kemanusiaan. Dapat digeneralisasikan bahwa penanganan konflik secara khusus adalah tanggung jawab negara dan secara umum siapapun berhak dan berkewajiban mengatasi konflik. Penanganan konflik secara jelas termaktub dalam Pasal 3 UU No. 7 -2012 yaitu:

- a. menciptakan kehidupan masyarakat yang aman, tenteram, damai, dan sejahtera;
- b. memelihara kondisi damai dan harmonis dalam hubungan sosial kemasyarakatan;
- c. meningkatkan tenggang rasa dan toleransi dalam kehidupan bermasyarakat dan bernegara;
- d. memelihara keberlangsungan fungsi pemerintahan;
- e. melindungi jiwa, harta benda, serta sarana dan prasarana umum;
- f. memberikan perlindungan dan pemenuhan hak korban; dan
- g. memulihkan kondisi fisik dan mental masyarakat serta sarana dan prasarana umum.

Lebih lanjut dalam Tomy Michael, *Pengaruh Tuhan Dalam Undang-Undang Republik Indonesia Nomor 7 Tahun 2012 Tentang Penanganan Konflik Sosial*, Mimbar Keadilan Jurnal Ilmu Hukum, Fakultas Hukum Universitas 17 Agustus 1945 Surabaya Edisi Mei - Nopember 2014, hal 103 - 110 ISSN 0853-8964.

2. Freedom is a right of every person: each individual enjoys the freedom of belief, thought, expression and action. The pluralism and the diversity of religions, colour, sex, race and language are willed by God in His wisdom, through which He created human beings. This divine wisdom is the source from which the right to freedom of belief and the freedom to be different derives. Therefore, the fact that people are forced to adhere to a certain religion or culture must be rejected, as too the imposition of a cultural way of life that others do not accept;
3. Justice based on mercy is the path to follow in order to achieve a dignified life to which every human being has a right;
4. Dialogue, understanding and the widespread promotion of a culture of tolerance, acceptance of others and of living together peacefully would contribute significantly to reducing many economic, social, political and environmental problems that weigh so heavily on a large part of humanity;
5. Dialogue among believers means coming together in the vast space of spiritual, human and shared social values and, from here, transmitting the highest moral virtues that religions aim for. It also means avoiding unproductive discussions;
6. The protection of places of worship – synagogues, churches and mosques – is a duty guaranteed by religions, human values, laws and international agreements. Every attempt to attack places of worship or threaten them by violent assaults, bombings or destruction, is a deviation from the teachings of religions as well as a clear violation of international law;
7. Terrorism is deplorable and threatens the security of people, be they in the East or the West, the North or the South, and disseminates panic, terror and pessimism, but this is not due to religion, even when terrorists instrumentalize it. It is due, rather, to an accumulation of incorrect interpretations of religious texts and to policies linked to hunger, poverty, injustice, oppression and pride. This is why it is so necessary to stop supporting terrorist movements fuelled by financing, the provision of weapons and strategy, and by attempts to justify these movements even using the media. All these must be regarded as international crimes that threaten security and world peace. Such terrorism must be condemned in all its forms and expressions;
8. The concept of *citizenship* is based on the equality of rights and duties, under which all enjoy justice. It is therefore crucial to establish in our societies the concept of *full citizenship* and reject the discriminatory use of the term *minorities* which engenders feelings of isolation and inferiority. Its misuse paves the way for hostility and discord; it undoes any successes and takes away the religious and civil rights of some citizens who are thus discriminated against;
9. Good relations between East and West are indisputably necessary for both. They must not be neglected, so that each can be enriched by the other's culture through fruitful exchange and dialogue. The West can discover in the East remedies for those spiritual and religious maladies that are caused by a prevailing materialism. And the East can find in the West many elements that can help free it from weakness, division, conflict and scientific, technical and cultural decline. It is important to pay attention to religious, cultural and historical differences that are a vital component in shaping the character, culture and civilization of the East. It is likewise important to reinforce the bond of fundamental human rights in order to help ensure a dignified life for all the men and women of East and West, avoiding the politics of double standards;

10. It is an essential requirement to recognize the right of women to education and employment, and to recognize their freedom to exercise their own political rights. Moreover, efforts must be made to free women from historical and social conditioning that runs contrary to the principles of their faith and dignity. It is also necessary to protect women from sexual exploitation and from being treated as merchandise or objects of pleasure or financial gain. Accordingly, an end must be brought to all those inhuman and vulgar practices that denigrate the dignity of women. Efforts must be made to modify those laws that prevent women from fully enjoying their rights;
11. The protection of the fundamental rights of children to grow up in a family environment, to receive nutrition, education and support, are duties of the family and society. Such duties must be guaranteed and protected so that they are not overlooked or denied to any child in any part of the world. All those practices that violate the dignity and rights of children must be denounced. It is equally important to be vigilant against the dangers that they are exposed to, particularly in the digital world, and to consider as a crime the trafficking of their innocence and all violations of their youth;
12. The protection of the rights of the elderly, the weak, the disabled, and the oppressed is a religious and social obligation that must be guaranteed and defended through strict legislation and the implementation of the relevant international agreements.”

Kedua belas poin tersebut merupakan pemahaman akan Tuhan secara universal dan bisa disebut spesifik karena atas dua pihak.⁴

C. Penutup

Document on Human Fraternity dapat dijadikan sebagai bagian dalam pembentukan peraturan perundang-undangan di Indonesia khususnya UU No. 24-2007 apabila dilakukan perubahan. Document on Human Fraternity merupakan norma desiderata yang universal.

⁴ Penutupnya

“To this end, by mutual cooperation, the Catholic Church and Al-Azhar announce and pledge to convey this Document to authorities, influential leaders, persons of religion all over the world, appropriate regional and international organizations, organizations within civil society, religious institutions and leading thinkers. They further pledge to make known the principles contained in this Declaration at all regional and international levels, while requesting that these principles be translated into policies, decisions, legislative texts, courses of study and materials to be circulated. Al-Azhar and the Catholic Church ask that this Document become the object of research and reflection in all schools, universities and institutes of formation, thus helping to educate new generations to bring goodness and peace to others, and to be defenders everywhere of the rights of the oppressed and of the least of our brothers and sisters. In conclusion, our aspiration is that: this Declaration may constitute an invitation to reconciliation and fraternity among all believers, indeed among believers and non-believers, and among all people of good will; this Declaration may be an appeal to every upright conscience that rejects deplorable violence and blind extremism; an appeal to those who cherish the values of tolerance and fraternity that are promoted and encouraged by religions; this Declaration may be a witness to the greatness of faith in God that unites divided hearts and elevates the human soul; this Declaration may be a sign of the closeness between East and West, between North and South, and between all who believe that God has created us to understand one another, cooperate with one another and live as brothers and sisters who love one another. This is what we hope and seek to achieve with the aim of finding a universal peace that all can enjoy in this life.”

Daftar Pustaka

- Tomy Michael, *Pengaruh Tuhan Dalam Undang-Undang Republik Indonesia Nomor 7 Tahun 2012 Tentang Penanganan Konflik Sosial*, *Mimbar Keadilan Jurnal Ilmu Hukum*, Fakultas Hukum Universitas 17 Agustus 1945 Surabaya Edisi Mei - Nopember 2014, hal 103 - 110 ISSN 0853-8964.
- _____, *Memaknai Frasa "Dengan Rahmat Tuhan Yang Maha Esa" Dalam Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan*, *Jurnal Hukum Staatsrechts Fakultas Hukum Universitas 17 Agustus 1945 Jakarta*.