Analysis of The Judge's Decision Regarding the Blasphemy’s Cases

(Case of Decision 726/Pid.Sus/2023/PN Plg)

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Abstract

The background to this research arises from the complexity and significance of religious blasphemy cases which are increasingly developing in Indonesia. This phenomenon not only creates commotion in the social realm, but also raises serious challenges in the legal and judicial context. The increasing cases’ number of religious blasphemy indicates a significant development in the diversity of opinion and expression in society. However, behind this diversity, there is an unclear legal boundary regarding religious blasphemy which often causes uncertainty in determining guilt and determining proportional punishment, even though it is actually regulated in the Information and Electronic Transactions Law. The role of media and social media is an important factor that increasingly complicates the dynamics of religious blasphemy cases, its coverage and discussions on online platforms can play a significant role in shaping public opinion and influencing the course of the judicial process. The impact is not only limited to the national level, but can create a domino effect in a global context. Meanwhile, judicial independence is often in the spotlight, because pressure and influence from various parties can influence judges’ decisions. Therefore, this research was conducted to provide an in-depth understanding of these aspects. Analysis of the judge’s decision in the religious blasphemy case carried out by Lina Mukherjee on social media is important for dissecting the legal and social dynamics involved, as well as providing a basis for recommendations for improvements in the justice system in order to achieve balanced justice and protected human rights.

KEYWORDS
Information and Electronic Transactions Law, Judge’s Decision, Religious Blasphemy, Social Media
Introduction

Legal developments in Indonesia cannot be separated from complex challenges involving religious sensitivity and freedom of speech.\(^1\) One phenomenon that creates waves of debate and controversy is the case of religious blasphemy. These cases, involving accusations of insulting religious teachings, have raised serious questions regarding legal clarity, the balance between freedom of expression and the protection of religion, and the independence of the judiciary in Indonesia. In recent years, the number of cases of religious blasphemy has increased significantly, one of the latest cases being that of celebrity Lina Mukherjee through her social media, creating a stage where the judiciary is faced with major challenges to interpret and apply the law in an increasingly complex and dynamic context.

This research aims to investigate and analyze judges' decisions in cases of religious blasphemy in Indonesia. The main focus is to explore it from the perspective of legal clarity, protection of human rights, and judicial independence. In the midst of the diversity of Indonesian society, which is known as a plural and tolerant nation, the debate surrounding religious blasphemy cases is becoming increasingly complex and requires a wise legal approach. The upward trend in cases also underscores the urgency to understand and evaluate the role of the justice system in responding to increasingly diverse and intense challenges.

Legal clarity is at the heart of the problems that arise in cases of religious blasphemy.\(^2\) The challenge of determining what constitutes religious blasphemy and how the punishment imposed should be consistent with principles of justice, creates uncertainty that involves judges, advocates, and society as a whole. This research will discuss judges' efforts to explain and articulate their decisions, as well as how these legal considerations can reflect the values of justice and human rights.

The importance of protecting human rights in the context of religious blasphemy is particularly prominent, given that such cases often involve a balance between freedom of expression and the protection of groups or individuals from insults to their religious beliefs. Judges' decisions in these cases can have long-term impacts not only on the individuals involved, but also on society as a whole. Judicial independence is an important factor in assessing the integrity and fairness of judges' decisions. In the midst of social, political and even economic pressures, judges are faced with the difficult task of ensuring that the decisions they make are based on the law and not influenced by external factors. Thus, this research will also explore


the extent to which judicial independence can be maintained in dealing with cases of religious blasphemy which often trigger controversy and public pressure.

Media analysis will also be an integral part of this research. Mass media and social media can provide a new dimension to religious blasphemy cases, magnify their impact, and influence public opinion and the public’s perception of judicial decisions. An examination of the way media reports and responses on social media play a role in shaping the public’s view of religious blasphemy cases, as well as their impact on the judicial process, will be an important part of this research.3

By focusing on the analysis of the judge's decision in the case of religious blasphemy conducted by Lina Mukherjee No.726/Pid.Sus/2023/PN Plg, this research is expected to make a significant contribution to the legal literature, as well as provide a richer and deeper view of the dynamics of the system judiciary in this country. Through a better understanding of the challenges and complexities involved in handling religious blasphemy cases, it is hoped that this research can provide a basis for improving and developing a justice system that is more effective and in line with the principles of justice, freedom and protection of human rights.

Method

The research method applied in this research is normative and adopts a case approach, with a focus on analyzing the judge's decision regarding the religious blasphemy case carried out by Lina Mukherjee on social media, Case Study: Palembang District Court No.726/Pid.Sus/2023/PN Plg. This approach involves collecting secondary data from legal sources and related court decision documents. It will conduct a normative analysis of laws, regulations, and legal precedents related to religious blasphemy in Indonesia. This analysis will provide the theoretical and legal foundation necessary to understand the legal context surrounding these cases. This case study will involve collecting and analyzing the judge's decision document No. 726/Pid.Sus/2023/PN Plg, with a focus on the legal considerations used, interpretation of the law, and the legal arguments underlying the judge's decision. It will note any differences or consistencies in the approaches taken by judges across cases, with the aim of identifying patterns and trends in judicial decisions regarding religious blasphemy.4

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Secondary data sources will include various legal documents, including court decisions, legal books, legal articles, and legal analyzes related to religious blasphemy cases. This normative analysis will also include a review of the views of legal experts and previously published legal opinions. By combining normative analysis and a case approach, this research is expected to provide a comprehensive understanding of the legal factors that influence judges’ decisions in religious blasphemy cases in Indonesia.

Result and Discussions

The intricate balance between the cherished principle of freedom of expression and the imperative to safeguard religious beliefs and sentiments reflects a fundamental struggle within modern societies. Freedom of expression, an essential pillar of democratic societies, serves as a cornerstone of individual liberties. It embodies the right to voice opinions, thoughts, and ideologies without censorship or repression, fostering diverse viewpoints and promoting an open exchange of ideas. Conversely, the protection of religion encompasses the need to preserve the sanctity of religious beliefs, symbols, and practices against denigration, insult, or desecration.

This balance encounters challenges due to the subjective nature of what constitutes offensive or blasphemous expressions against religion. What one individual considers a valid exercise of free speech, another might perceive as a deliberate affront to deeply-held religious beliefs. Consequently, attempts to strike this balance involve navigating intricate cultural, social, and legal landscapes to accommodate varying interpretations and sensitivities concerning religious reverence and free expression. The tension between these two fundamental rights becomes

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particularly pronounced in cases where expressions of opinion conflict with religious doctrines or practices.\textsuperscript{13} Instances of perceived blasphemy or sacrilege can provoke strong emotional reactions and social unrest within communities.\textsuperscript{14} In response, some societies implement blasphemy laws or regulations to safeguard religious sentiments, with penalties ranging from legal sanctions to societal ostracization.

Legal systems grapple with the complexities inherent in adjudicating cases that involve this tension. Courts often face the formidable task of delineating the fine line between legitimate freedom of expression and speech that transgresses the boundaries of religious reverence. Decisions rendered in such cases become precedents that shape future legal approaches, setting parameters for the permissible bounds of expression and religious protection.\textsuperscript{15} The advent of the digital era and the proliferation of social media platforms have further complicated this delicate balance. These platforms serve as arenas for widespread dissemination of opinions and ideas, yet they also present challenges with respect to regulating content that might offend religious sensitivities. The instantaneous and global nature of these platforms amplifies the impact of contentious expressions, potentially sparking international incidents and exacerbating social tensions.

Achieving an equilibrium between freedom of expression and the protection of religion necessitates fostering an environment of mutual respect, tolerance, and understanding among diverse communities. Encouraging interfaith dialogue, promoting education on religious diversity and tolerance, and cultivating an ethos that values both the freedom to express opinions and the respect for religious beliefs are essential steps toward striking a harmonious balance. The quest for equilibrium between freedom of expression and the protection of religion is an ongoing and intricate societal endeavor. It involves navigating through multifaceted moral, legal, and cultural landscapes, advocating for both the preservation of individual liberties and the respectful coexistence of diverse religious beliefs within the fabric of a pluralistic society.

Blasphemy, according to the Kamus Besar Bahasa Indonesia (KBBI), it means insulting; humiliating; lower (level, etc.). The crime of blasphemy refers to acts or actions that directly or indirectly insult or demean the teachings, beliefs or values of a particular religion. Blasphemy often involves the use of words, writings, images, or other actions that could be considered

insulting, demeaning, or insulting to a religion.\textsuperscript{16} Blasphemy perceived as disrespectful or offensive towards religious doctrines, can have far-reaching repercussions. It often triggers emotional reactions, societal unrest, or even violent conflicts within communities. In contrast, curbing freedom of opinion to protect against blasphemy could potentially stifle open dialogue, intellectual progress, and the exchange of diverse viewpoints. The complexity deepens when examining the varied interpretations and definitions of blasphemy across different cultures and belief systems. What one community may perceive as blasphemous could be deemed a legitimate exercise of free speech by another. This subjectivity underscores the difficulty in establishing universally applicable standards when addressing cases of blasphemy.

Legal systems grapple with the intricate task of balancing these conflicting rights. Courts face the challenge of upholding freedom of expression while simultaneously respecting religious sensitivities. Decisions made in cases involving blasphemy often serve as precedents, shaping future legal approaches and societal norms regarding the boundaries of free speech and religious reverence. Moreover, the advent of the digital age and social media platforms has amplified the complexities of this issue. While these platforms provide unprecedented opportunities for expression and dialogue, they also serve as catalysts for the rapid dissemination of potentially blasphemous content, leading to widespread reactions and social tensions.

To navigate this tension effectively, fostering mutual respect, tolerance, and interfaith dialogue becomes imperative. Encouraging understanding and empathy among diverse communities, promoting educational initiatives, and cultivating an environment that values both freedom of expression and religious reverence are crucial steps towards achieving a harmonious balance. So, the tension between freedom of opinion and blasphemy embodies a nuanced and multifaceted dilemma. Resolving this conflict requires thoughtful consideration, dialogue, and a collective commitment to preserving both the right to free expression and the respect for religious sentiments within the fabric of a diverse and inclusive society.

The content of Lina Mukherjee eating crispy pork while saying “bismillah” was initially reported by a resident on suspicion of religious blasphemy. Lina is suspected of committing blasphemy against religion because the owner of the TikTok account @lilumukerji knowingly, as a Muslim, ate pork culinary delights which are forbidden for Muslims. In this content, he repeatedly says the name of Allah. Based on the report, the South Sumatra Regional Police conducted an investigation by summoning several expert witnesses, including language experts, Information and Electronic Transactions experts and the Indonesian Ulama Council. From the results of the examination, the authorities then named Lina as a suspect

in the case of religious blasphemy after carrying out a case title. Lina Mukherjee was finally officially detained in a religious blasphemy case because of the content of eating pork while saying “bismillah” on Monday (10/7/2023). She was detained at the Merdeka Women’s Prison for 20 days, starting from 10-29 July 2023.

Legal enlightenment in cases of religious blasphemy embodies a multifaceted exploration within legal systems worldwide. Blasphemy, often defined as acts or expressions deemed offensive or disrespectful towards religious beliefs or symbols, triggers a complex legal terrain. Judicial systems face the intricate task of navigating between safeguarding freedom of expression and upholding social harmony while respecting religious sensitivities. The legal enlightenment regarding religious blasphemy cases encapsulates the interpretative dance between the principles of freedom of expression enshrined in various international conventions and the laws protecting religious sentiments within national jurisdictions. Courts scrutinize these cases through the lens of constitutional freedoms, human rights provisions, and statutes addressing religious harmony.

Central to the legal discourse is the evaluation of what constitutes blasphemy within a specific cultural, social, and legal context. The subjective nature of religious beliefs renders the determination of blasphemy challenging, often leading to varying interpretations and legal precedents across different jurisdictions. Courts grapple with the delicate balance of protecting religious sanctities while avoiding undue curtailment of the right to free speech, inherently shaping legal understanding and enforcement. Furthermore, legal enlightenment entails a comprehensive review of case law, precedents, and legal principles derived from both national and international legal frameworks. Courts rely on established legal doctrines, precedents, and interpretations to discern the boundaries of acceptable speech within the realm of religious sentiments. The evolution of legal enlightenment in this sphere is contingent on the jurisprudential exploration of these precedents and their contextual applicability in contemporary cases.

The legal enlightenment surrounding religious blasphemy also highlights the complexities arising from technological advancements. The digital era has amplified the dissemination of content, leading to increased instances of perceived blasphemy across global platforms. This necessitates a reassessment of legal frameworks to effectively address transnational implications while balancing jurisdictional boundaries. Moreover, legal enlightenment involves understanding the societal impact of legal determinations in religious blasphemy cases. Court decisions significantly influence public perceptions, shaping societal norms and contributing to the ongoing discourse on the boundaries of free expression and religious tolerance. The dissemination and interpretation of legal verdicts further underscore the evolving legal enlightenment within societies. Legal enlightenment concerning cases of religious blasphemy navigates a labyrinth of legal intricacies, cultural sensitivities, and international conventions. It rests on the delicate interplay between safeguarding
freedom of expression and preserving religious sanctities while reflecting the evolving societal attitudes towards these fundamental rights and their interpretations within the rule of law.

Indonesia, the state of law that provides understanding that everything that is done must be in accordance with the law. And if someone violates or doing something that is not in accordance with the law, they will receive sanctions as regulated by law. In relation to someone who commits a criminal act, the sanctions can be seen in the Criminal Code (KUHP) or in the laws outside the Criminal Code (Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions) depending on the perpetrator’s actions.\(^\text{17}\) However, in imposing criminal sanctions on someone who commits a criminal act, they do not necessarily have to be immediately punished, but it has to be proved how far the person is able to take responsibility for their actions by paying attention to the elements of criminal responsibility itself which include the ability to be responsible, mistakes, and there is no reason to forgive. The ability to be responsible is the main element in the criminal responsibility, this is because the ability to be responsible was seen from the psychological condition of the perpetrator.\(^\text{18}\)

The judge’s considerations are one of the most important aspects in determining the realization of the value of a judge’s decision which contains justice (\textit{ex aequo et bono}) and contains legal certainty, besides that it also contains benefits for the parties concerned so that the judge’s considerations must be addressed carefully. Judges in examining a case also require evidence, where the results of that evidence will be used as material for consideration in deciding the case. Evidence is the most important stage in examination at trial. The judge cannot make a decision before it is clear to him that the event or fact actually occurred, that is, its truth is proven, so that it appears that there is a legal relationship between the parties.\(^\text{19}\)

There are several theories or approaches that can be used by judges when considering a decision in a case, namely: the Balance Theory, the balance between the conditions determined by law and the interests of the parties involved or related to the case; Art Approach Theory and Intuition, the Art and Intuition approach is that the judge’s decision is the judge’s discretion or authority. As a matter of discretion, in handing down a decision, the judge will adjust it to the circumstances and a reasonable


sentence for each perpetrator of a crime; Experiential Approach Theory, the Experience Approach Theory is that a judge's experience is something that can help him in dealing with the cases he faces every day; Scientific Approach Theory, the Scientific Approach theory starts from the idea that the criminal imposition process must be carried out systematically and with great care, especially in relation to previous decisions in order to ensure the consistency of the judge's decisions; Ratio Decidendi Theory, the Ratio Decidendi theory is based on a fundamental philosophical framework that includes a comprehensive examination of all relevant aspects pertaining to the issue in dispute. Furthermore, this theory seeks to identify applicable laws and regulations that function as a legal basis for passing decisions. In this context, judges are required to base their considerations on transparent reasons aimed at upholding the law and ensuring justice for the parties involved in the court process; and last is Theory of Wisdom, elements of this theory emphasize the role of government, society, family, and parents in guiding, nurturing, teaching, and protecting those who have been accused, with the ultimate goal of enabling their transformation into productive members of the family, society, and nation.

Based on decision No.726/Pid.Sus/2023/PN Plg, the case position is:
That the defendant is LINA LUTFIAWATI AKA LILU AKA LINA MUKHERJEE BINTI ABDUL MUKHIT, on Tuesday 14 March 2023 at 18.00 WIB or at least at another time around March 2023, located on Jalan Inspector Marzuki, Siring Agung Village, Ilir Barat District I Palembang City or tiktok account @lilumukerji www.tiktok.com/@lilumukerji/video/7208429147918486810 or as in Youtube Account https://www.youtube.com/shorts/J9KiWemAz or at least somewhere else within the legal area of the Palembang District Court, intentionally and without right disseminating information aimed at creating feelings of hatred or hostility towards certain individuals and/or groups of society based on regarding ethnicity, religion, race and inter-group (SARA), which the defendant carried out in the following way:
That on Thursday 9 March 2023, at around 15.00 WITA, the defendant together with his assistant said "Yok, Cobain Kriuk Babi Yok" and deliberately went to the Sisin Tukad Babi Guling Restaurant which is located at Jalan Sri Rama No. 8, Legian Village, Kuta District, Badung Regency, Bali Province. Then, when the pork kriuk was served, the defendant ordered his assistant to record a video of the defendant eating the pork kriuk using 1 (one) purple iPhone 14 Pro Max mobile phone and then distributed the video. This was done by the defendant posting a video of eating pork kriuk to the tiktok account @lilumukerji link address https://www.tiktok.com/@lilumukerji/video/7208429147918486810 with a duration of 1:40 (one minute and forty seconds) which was then watched by 4, 5 million viewers and the YouTube account
At the time and place as mentioned above, witness Syarif Hidayat Bin Syamsudin as a netizen saw the video content distributed by the defendant in which the defendant was eating pork cracklings while speaking with the following sentences: “Bismillah, eh lupa guys, guys, Hari ini aku kayaknya dipecat dari kartu keluarga karena aku penasaran banget sama yang namanya kriuk babi ya, jadi hari ini rukun iman tidak aku langgar udah pasti di kartu keluargaku dicabut tapi aku cuma penasaran karena di tiktok ku banyak kriuk yaa, tapi kok makan kriuk babi aku merinding ya, kemarin makan dagingnya biasa aja, kak lilu udah berapa kali makan babi ? totalnya tiga kali ya. pertama di srilanka, waktu itu aku ga sengaja makan, aku ga bisa bahasa inggris pok gitu kan, aku pikir pork itu tepok pok pok pok jadi waktu usiku masih dua puluh empat tahun, terus abis makan babi aku tanya sama ex aku kan. eh masjid dimana ?? gaya gaya nanya masjid, udah makan (tertawa). Terus yang kedua kemaren ada acara di tempatnya non ya non, terus yang ketiga ini aku dengan kesadaran diri yaa. Cuma pengen rasain kek apa sih rasanya, kriuk babi yang rame di.... Ya allah dipecat ini dari kartu keluarga. kok rasanya kayak ini yaaa, kriuk babi kayak daging sapi yang dijemur yang keras ga seenak orang yang cerita di tiktok sih aku ya, kalo aku b ajaa, ya allah takut ada yang masuk puskesmas ni keluarga ku. Maafkan aku ya cuma konten kok”;

That after watching the defendant's video, witness Syarif Hidayat Bin Syamsudin felt that he didn't like, hated and criticized the defendant's video for insulting Islam by saying the words Bismillah, Oh Allah when the defendant ate pork cracklings and the same reaction was also felt by other netizens who watched the video.

eating pork cracklings, the defendants included witness Martinawati Binti H. Basarudin, witness Husyam Bin Usman, witness Zakarshi Bin Jasmani, and witness Sapriadi Bin Syamsudin who felt hatred, anxiety and felt that their religion had been insulted, then witness Sapriadi Bin Syamsudin contacted witness KH. Khobir Asyari as a Ulama asked for an opinion about the video of the defendant eating pork kriuk which was the witness KH. Khobir Asyari explained that the content of eating pork kriuk made by the defendant was a form of trivializing the religion of Allah by uploading the video on social media so that for other people who do not have faith it will disturb people and in the life of the state this is a violation of the first principle, then in on Tuesday 28 March 2023, witness Syarif Hidayat reported the defendant’s actions to the South Sumatra Regional Police for further investigation;

That the video of the defendant eating kriuk pork received comments from netizens, some were pro and some were against,
with various comments making noise, mutual attacks between pro and con netizens, resulting in feelings of hatred and hostility among netizens who were restless and didn’t like the eating video. The pork kriuk posted by the defendant even had some netizens reminding the defendant that it was inappropriate for the defendant, who is clearly Muslim and a Muslim woman, to post herself eating pork kriuk which is forbidden in Islam, but comments and advice from netizens in the video of eating pork kriuk were responded to with annoyance by the defendant. I don’t feel wrong because I posted a video of the defendant eating pork cracklings on live broadcast on the TikTok account link address @lilumukerji https://www.tiktok.com/@lilumukerji/video/7208429147918486810, thus making netizens even more irritated and uncomfortable with the defendant’s attitude, only for the sake of the content, they are willing to sacrifice their religion and the defendant’s actions can be emulated, imitated by the younger generation of Muslims who, if they want to be famous, simply carry out actions that are prohibited by their religion so that the video goes viral in cyberspace.

The indictment of the public prosecutor is:
The indictment of the public prosecutor stated that the defendant LINA LUTFIAWATI AKA LILU ALIAS LINA MUKHERJEE BINTI ABDUL MUKHIT was guilty of committing the crime of "deliberately and without the right to spread information aimed at causing feelings of hatred for certain individuals and groups of society based on religion" as regulated and punishable by crime in Article 45A paragraph (2) Jo Article 28 Paragraph (2) Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions; Sentenced the defendant LINA LUTFIAWATI AKA LILU ALIAS LINA MUKHERJEE BINTI ABDUL MUKHIT to prison for 2 (TWO) years reduced by the time the defendant was serving temporary detention with the order that the defendant remain in detention and a fine of Rp. 250,000,000,- (two hundred and fifty million rupiah) provided that if the fine is not paid it will be replaced with 3 (three) months in prison; Determine evidence in the form of:
- 1 (one) Vertex Brand 4.7 GB DVD-R; Seized to be destroyed;
- 1 (one) Indosat sim card with cellphone number 085691200801;
- 1 (one) tiktok account @lilumukerji link https://www.tiktok.com;
- 1 (one) Iphone 14 Pro Max cellphone in purple; Returned to the defendant;
Determine that the defendant pay court costs of Rp. 5,000,- (five thousand rupiah).

The judge’s decision:

Available online at https://journal.unnes.ac.id/nju/index.php/digest
LINA LUTFIAWATI AKA LILU AKA LINA MUKHERJEE BINTI ABDUL MUKHIT is guilty of committing the crime of "Deliberately and without right disseminating information aimed at causing feelings of hatred for certain individuals and groups of society based on religion" as in the Public Prosecutor's Single Indictment; Sentence the defendant to imprisonment for 2 (two) years and pay a fine of IDR 250,000,000 (two hundred and fifty million rupiah) with the provision that if the fine is not paid it will be replaced by 3 (three) months in prison; Determine that the period of arrest and detention that the Defendant has served shall be deducted entirely from the sentence imposed.

Based on decision No.726/Pid.Sus/2023/PN Plg, if we take a look at the facts at the trial, it can be seen that the defendant Lina Mukherjee is in a good health both physically and mentally. Even in her statement at the trial, the defendant Lina Mukherjee confirmed that the person in the video containing pork eating was the defendant herself. In the criminal law, there is a principle of “there is no crime without the fault” or “geen straf zonder schuld”. This means that no one can be punished unless there is an error in their actions. Apart from that, the principle of no crime without error is related to criminal liability.

Based on decision No.726/Pid.Sus/2023/PN Plg, that the defendant committed its religious blasphemy on a purpose. This is because the defendant Lina Mukherjee wanted the criminal act to occur, then the defendant Lina Mukherjee also knew that the actions she committed had consequences that she had to bear. It was proved by her statement, the defendant Lina Mukherjee in the video said that she had violated the pillars of faith in Islam. As previously explained, there is no crime without fault, so in this case the defendant Lina Mukherjee is guilty and fulfils the elements of the crime of religious blasphemy contained in article 45A paragraph (2) jo. Article 28 paragraph (2) Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions. Based on decision No.726/Pid.Sus/2023/PN Plg, there was no reason to forgive the defendant Lina Mukherjee, because in this case the defendant Lina Mukherjee could be asked for her criminally responsible because there was no indication of a mental disorder in the defendant. Then also the defendant was not in a condition of force that was beyond the limits, because the defendant purely admitted the crime because of the defendant’s own will.

Based on the explanation outlined above, it can be concluded that the defendant Lina Mukherjee can be held criminally responsible for the crime she committed, namely committing the crime of religious blasphemy as formulated in article 45A paragraph (2) jo. Article 28 paragraph (2) Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions. As in this case, the defendant Line Mukherjee has fulfilled the elements of criminal
responsibility which include the ability to take responsibility, the presence of fault, and the absence of fault. So that by fulfilling the elements of criminal responsibility, there is no longer any reason for the defendant Lina Mukherjee not to take responsibility for her actions.

Legal decisions pertaining to religious blasphemy cases hold substantial implications that resonate across multiple facets of society. These determinations wield a profound impact on the collective perception of justice within a community. The way in which courts interpret and apply laws regarding blasphemy sets precedents that define the parameters of permissible speech and establish the contours of legal culpability. The public's confidence in the fairness and impartiality of the legal system hinges significantly on how these cases are adjudicated, influencing the societal trust in the judiciary's ability to balance fundamental freedoms with the preservation of social harmony.20

Furthermore, these legal rulings possess direct ramifications for the realm of freedom of expression. Balancing the constitutional right to free speech with the imperative to protect religious sentiments navigates a precarious intersection. Legal decisions on blasphemy cases prompt debates about the boundaries of free expression, the legitimacy of criticism or satire, and the extent to which individuals may express opinions without encroaching upon religious beliefs. These determinations thus sculpt societal attitudes toward the scope and limits of free speech within diverse and pluralistic societies, fostering discourse about the fine line between freedom of expression and the respectful treatment of religious beliefs.

Moreover, the ripple effects extend to the oversight and governance of content disseminated across digital platforms. In the era of rapid information dissemination and global connectivity facilitated by online mediums, legal rulings on blasphemy intersect profoundly with the challenges of regulating content on digital platforms. These platforms serve as conduits for global communication and expression, yet they pose significant quandaries in moderating content that may be construed as blasphemous or offensive to religious convictions. Legal decisions function as guiding principles for these platforms, influencing their content moderation policies, practices, and ethical considerations, thereby spotlighting the equilibrium between safeguarding freedom of expression and responsibly supervising content in the digital realm.

Legal decisions in religious blasphemy cases resonate across the legal, social, and digital landscapes, influencing societal attitudes, shaping the course of justice, and contributing to the ongoing discourse on freedom of expression and content governance. These determinations highlight the intricacies involved in balancing constitutional rights, cultural sensitivities, and communal accord within an evolving global milieu, underscoring the necessity for a nuanced approach that upholds both the sanctity of religious beliefs and the protection of free speech. However, as we saw in the Lina Mukherjee case above, the judge’s decision in this case was also driven by

the great pressure from the masses or the public who felt displeased with the distribution of the video which was considered blasphemous to religion. So in this case, the pressure of the masses is considered very influential because cases of religious blasphemy always involve the masses, and the masses are considered to represent the truth. The masses determine whether the judge follows his conscience or the demands of the masses, which turns out to be the demands of the masses. Then in the current conditions, where technological advances and developments in social media are very fast, this makes it a challenge for judges not to be influenced by the masses, especially from a legal perspective, mass influence is a normal thing. Because the priority in legal matters is society, if the law is not in line with society, then the law will die. It will also be difficult for the National Criminal Code to eliminate the influence of society, because society emphasizes whether the law is alive or drowns out existing law. Furthermore, the details of religious blasphemy in the National Criminal Code are also intended to avoid different interpretations, therefore to avoid differences in interpretation from one legal expert to another.

Conclusion

In the analysis of the judge's decision regarding a case of religious blasphemy on social media, it becomes evident that the legal landscape surrounding such cases is intricate and multifaceted. The judge's decision embodies the delicate balancing act between protecting freedom of expression and safeguarding religious sentiments, reflecting the jurisprudential complexities inherent in these proceedings. The verdict serves as a cornerstone, setting a precedent that delineates the permissible boundaries of expression on digital platforms concerning religious beliefs. The judge's ruling not only shapes legal precedents but also influences societal attitudes and perceptions regarding the contours of free speech and the respectful treatment of religious beliefs in the digital age. Moreover, the decision underscores the need for a nuanced and thoughtful approach to reconcile fundamental rights with cultural sensitivities, highlighting the necessity for ongoing dialogue, legal clarity, and ethical considerations to navigate the complexities of religious blasphemy cases on social media.
In the judge's consideration, the author agrees with the Panel of Judges who have given a prison sentence and a fine to the defendant Lina Mukherjee, because the criminal act committed by Lina Mukherjee was more appropriate and fulfilled the elements of a criminal act in Article 45A paragraph (2) jo. Article 28 paragraph (2) Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, as well as the legal facts that existed during the examination process. Then, the author also agrees with the consideration of the Panel of Judges regarding punishment, where punishment is a last resort and the Panel of Judges considers the severity of the actions committed by the defendant.

However, in handing down the verdict against the defendant, the author disagrees with the judge, because he was given a prison sentence of two years and a fine of Rp. 250,000,000.00 which can also be replaced by imprisonment for 3 months if the fine cannot be met is still relatively light for perpetrators of religious blasphemy on social media and makes it possible for similar criminal acts to occur again in society, considering the low ability of Indonesian society to filter information spread across the digital world. Thus, it is hoped that giving a prison sentence of more than two years will be able to provide a deterrent effect for the defendant so that he does not repeat his actions again. Then also the punishment imposed by the Panel of Judges is not merely a means of retaliation for crimes that have been committed, but the Panel of Judges also believes that punishment can be used as a means of justification, education, prevention and eradication.

Then, before handing down its decision, the Panel of Judges also paid attention to the things that aggravated and mitigated the defendant Lina Mukherjee, so that the Panel of Judges could then give a decision that was fair, useful and legally binding.
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