Church Law in the context of Indonesia: A Response to Leo Koffeman

Emanuel Gerrit Singgih

Abstract
Tanggapan E.G. Singgih terhadap Tesis L. Koffeman intinya menunjuk pada ketidakberdayaan hukum gereja berhadapan dengan konteks masyarakat yang non-Kristen seperti misalnya Indonesia, yang mayoritas penduduknya adalah Mulim. Sejak zaman Orde Baru, pemerintah sering campur tangan dalam urusan intern Gereja, misalnya yang kita lihat dalam kasus HKBP, dan meskipun sekarang kita hidup dalam era Reformasi, tetap saja hukum gereja tidak berdaya, misalnya berkaitan dengan pelarangan ibadah dan penutupan tempat ibadah Kristen di berbagai tempat di Jawa Barat dan Jakarta. Alih-alih memperdalam hukum gereja, jemaat cenderung mengandalkan hukum sipil, yang dianggap lebih mampu melindungi kepentingan Kristen di Indonesia.

Key-words
"Hukum sipil" dan "hukum gereja", intervensi pemerintah (pusat maupun lokal), penghapusan mata kuliah hukum gereja, pendalaman terhadap hukum sipil, masyarakat non-Kristen, masyarakat sipil, masyarakat plural, UU perkawinan.

Introduction

I will start this response by acknowledging my role in the establishment of the newer curriculum of Duta Wacana, in which no reference whatsoever to church law can be found. In the beginning of 1990 and onward, the Association of Theological Schools in Indonesia (Persekutuan Sekolah-sekolah Theologia di Indonesia, abbr: *Persetia*) started to pursue government's (i.e. the Ministry of National Education) official recognition of theology as an academic subject. At that time I was vice-chairperson of that association, (John Titaley from Salatiga was the chairperson) while at the same time I was Dean of the Theological Faculty at Duta Wacana. In 1995 the object of pursuit was achieved, and for the first time in the history of Christian Theological Education in Indonesia, theology was recognized by the government as an academic subject. After that when the faculty of Duta Wacana was obliged to adjust their curriculum to this new development, the process of revision of the curriculum was smooth.

But there were no achievements without the (necessary?) sacrifices. One of them is to drop church law from the list. One of the reasons why it was dropped is the government's insistence that the curriculum must show "real" and "academic" subjects, and what is academic or non-academic is decided by them (and they are mostly Muslims). For instance, we can no any longer use the term "tafsir" (exegese), because "tafsir" is used in a non-academic (Muslim) religious institution. We have to replace it with the term "hermeneutics", hence nowadays all the courses on biblical interpretation have the heading "hermeneutics". But they did not insist that "theology" should be replaced by "philosophy" (like it was in the beginning, when individual

theological schools in the regions are starting their own process of governmental recognition in the end of the 80s).

Church law is dropped, because law is law, and theology is theology, and such, theology should not be mixed with law. The situation is similar to what Koffeman's has pictured of the situation in Germany, when church law is a part of the faculty of law (see his paper, p.1). Here too, in Indonesia, religious law (i.e. Islamic law) is part of the faculty of law, although it is also true that in some of the Islamic religious institutes, religious law is also taught (prior to the period where all of them have been raised to university level). If you want to retain the content of church law, then you have to introduce first the subject of law within the theology curriculum, but it does not solve the problem, because all of the members of *Persetia* will object to that, and because the government's suspicion that theology is a thing similar to what is taught in a Muslim non-academic institution. "Church law" sounds exactly like the non-academic alternative to "law". Anyway, it is dropped, because practically no one in the association objected to the proposal to drop it during the internal debates. Compared with the debates on other subjects, which have also come into the list of "courses to be dropped", such as Religious Education, it seems that everybody agrees that church law belongs to a past paradigm in theology.

(It is a surprise that in the end, STT Jakarta insists on holding on that church law will continue to be taught. But in the whole process of asking governmental recognition [i.e. The Ministry of National Education], our colleagues at STT Jakarta are passive onlookers. Later on it is clear that for some reasons they are also looking for official recognition, not from the Ministry of National Education, but from the Ministry of Religious Affairs, which [at that time] is dominated by sectarian tendency. The fact that you can ask for recognition from either one of the two departments or ministries in Indonesia, is symptomatic of the byzantine character of the Indonesian bureaucracy…)

Why is there no objection?

What I mention above is the formal or practical factors why church law is dropped in the process of creating a new curriculum. But after some years past, it is of course interesting to look for *wider* reasons why members of the *Persetia* did not object to the dropping of church law as a theological course: 1. In the course of the years, theological institutions of Indonesia have been increasingly becoming inter-denominational, if not in the structure of the school, at least in the number of students and even faculty. "Inter-denominational" does not necessarily mean "ecumenical" (in the sense Catholics teaching together with Protestants in the same theological school), but still you can no longer hold the assumption that the school is representative of certain denomination. A few member-schools of *Persetia* are still recognizably denominational (for instance, by holding on to the term "seminary"), but as their students come from everywhere, there is no point of teaching church law of one denomination only. So if church law is still taught at Jakarta seminary, then it may imply that the students and also the faculty share the same denominational (i.e. Reformed) tenets, although they come from various church organizations in Indonesia. But this is not consistent with the popular evaluation within the congregations, where Jakarta is termed as a "liberal" theological institution…

2. There is another influence which plays an often decisive role, and this is admittedly, a negative one. During Suharto's *New Order* era, church institutions have to bow down to the wishes of the government. In the 80's Suharto issued a decree, in which every institution and organization in Indonesia should accept the ideology of Pancasila as the only true principle in affairs of the nation, the state and the community. At that time he was facing increasing opposition from the side of the Islamic political organizations, and in his imagination, this opposition is a real threat that has to be neutralized. But as Pancasila is like an umbrella-ideology, it is also an opportunity to force down his own interpretation of Pancasila to every segment of the society, and which could be engineered to protect his own interests and that of his family. So anybody who is against Suharto and his family is against Pancasila! The intention to curb down the Islamic threat is tacitly used to persuade others to accept this principle of Pancasila as the only principle (Ind: "satu-satunya asas") of the life of the country. Either because they also believe this threat, or because they are afraid of being dissolved, all member-churches of the Indonesian communion of churches and other churches as well, accept this principle. In the statutes of many churches and church related institutions (such as Christian universities and seminaries) Pancasila as the only principle of the life of the country is inserted (and remain so, even when we are now in the post-Soeharto era!).

I can give you some picture of what has happened in the process. During the 1986 Synod meeting of the church where I belong (i.e. Gereja Protestan di Indonesia bagian Barat, abbr: GPIB) at Denpasar (I was present in this meeting as one of the official delegates), two new main statements are adopted and inserted in the Preambule of the statutes: the one concerns the position of Jesus Christ as the sole foundation of the church, and the other concerns the position of the Pancasila as the sole principle of the church in matters relating to the nation, the state and the community. It follows closely the formulation laid down by the Indonesian communion of churches in the General Assembly of 1984 at Ambon. There is general agreement at the Synod meeting, that this is a precarious one step to heresy, but it is still not heresy… I am also sure that in the other churches which have been going through the same process, this agreement is also strong. However, the effect is devastating, as there is now the impression that the church laws are losing their sacred character, and such, can be watered down. Also on the government side, I believe, there is a similar impression, as in the following years, increasingly it intervenes in the affairs of the churches, and culminates in the government's intervention during the split in the Batak Church (HKBP) in the years 1992-1998.

3. The government sided with one faction of the split church, but I want to focus on the reason of the other faction, who naturally opposes this intervention: the state is wrong to intervene, as the church belongs to God's realm, which is a classical argument derived from the words of Jesus, "Render to Caesar…." (Matt 22:21). The problem is that this classical argument is unknown to the government, or they may be informed of it, but disregard it as irrelevant. As we have seen above, in the eyes of the government, church institutions are part of the society (Ind: "organisasi kemasyarakatan"), and the society is governed according to the principle of Pancasila, while Soeharto is the main interpreter of Pancasila. So what matters is not church law, but government's law! In Koffeman's insightful paper there are several arguments against church law. But I think one important argument is missing: in countries where

the dominant majority is non-Christian or has no "Christian" tradition, church law has no civil effects. And this is precisely that clicked to the minds of many who watched the drama of HKBP: *church law cannot protect us from outside intervention, especially when it is the government who intervenes*. In this case the government is Soeharto's totalitarian government with its totalitarian laws, and totalitarian laws pay no respect to other kinds of laws, but even so I am not sure whether in a democratic society like what we are supposed to have now the situation is different: witness the recent closing of more than 25 church buildings by local governments in Jakarta and West Java, because in their eyes these buildings are illegal buildings (i.e. have no building permits).

What shall we do?

So there are two strands that contributed to the near-demise of church law in Indonesia, the one is positive: church law is too identical with a certain confessional belief, and the other is negative: church law is helpless in a non-Christian context. Some churches are already aware of this situation, and rather than promoting church law, they start to protect and safeguard their properties by acquiring legal status as a public organization (Ind: "status badan hukum"). That is why in some name-boards in front of church buildings it is explicitly stated that this organization has legal basis. And the language also changes: formerly, when you said to the elders who are responsible for the collection that "this is God's money", then nobody will ever think of ways to take some of the money when the opportunity arrives. But now "God's money" means it does not belong to anybody. If you steal some of it, nobody can ask responsibility from you. The new situation demands people to say "it belongs to the church which is a legal body, and if you steal from the church, we will bring to the judicial (state) court"! And although the policy is still unofficial, it is more common now to see how within the elders of the church there are quite a number of lawyers, who can be called to task when there are challenges from outside (or from inside as well). "Law" is on its way to replace "church law", and such it seems that to the congregations, law as a secular discipline is more important than church law as a theological discipline.

How are we going to respond to this change? Is it a crisis in spirituality, as it involves the loss of theological language? Perhaps, but I would try to understand rather than to judge. There is a change indeed, from the understanding of the church they inherited from the past, and a new way of looking at the church as part and parcel of the cultural context. The church has ceased to become the concretization of "Christian culture". But by doing this, it has stopped looking at the past, and dare to live in the present. There is surely a risk, namely that the church identified itself too closely with the world, in this case the structures of the society. Because of this identification, it looses much of its prophetic voice. Still, they want to survive, and for the time being, the voice of wisdom is more important then prophetic voice. Does it mean that the church has fallen into the arms of legalism? (cf. Koffeman's paper, p.8, where he refers to the black churches in South Africa). Maybe yes. But let me give another example of this tendency. In 1974 the state confirmed the law, that every marriage is only valid if it is performed by a religious official of the recognized religions in Indonesia. Again you see here, the influence of Islam, where marriages are understood as religious affairs and not as civil affairs! Formerly in the Protestant churches,

marriages are blessed, after it was legalized in the civil marriage department in the city hall. Now it is done by the minister of the church and becomes valid only if it is done and registered in a church.

The problem is that Indonesia is also a pluralistic society. One feature of this society is mixed marriages. Before 1974 it is relatively easy for couples belonging to different religions to marry in the civil marriage registration office. Formerly in the Protestant churches there is no real objection to mixed couples, as the policy is always to help people in getting their marriage certificate first, and later on, it is hoped that the one of the couple who is not a Christian, will learn about Christianity from his or her spouse. But since 1974 it has increasingly becoming difficult for mixed couples to marry in a Protestant church. Mixed marriages are considered as sin, and not infrequently there are ministers who reject outright requests for mixed marriages. For me this new tendency is not a good development, as it is following a certain attitude, which refuses to acknowledge the Indonesian context as being a pluralistic context. This kind of refusal will be detrimental to the future of the Christian church as a minority in Indonesia. So I am glad, that in this difficult situation there are still ministers who try to look for loopholes in this marriage law, to enable them to bless mixed marriages. But the problem is, whether you are pro-mixed marriages or anti mixed marriages, the law which is instrumental in front of you is not church law, but civil law! In the end I think what we are facing is not legalism, but realism.

Perhaps Koffeman is wondering: what happened to the principle of *musyawarah untuk mufakat* as a consensus method? (see his paper, p. 7 where he is referring to Roy Alexander Suryanegara's Master thesis in Kampen). Well, the problem with this principle is that in reality this method is relying too much on the goodness of the leadership (formerly the *lurah*, the head of the village). Of course he has to get the consent of all who attended the meeting, but the villagers usually agree with his proposals, with the assumption that what he plans is for the good of the villagers. If the leadership is good, then all is good and well, but if not? During the New Order president Suharto acted as if he is the *lurah* and all of Indonesia is his village. *Musyawarah untuk mufakat* became the norm, and it means: please agree with his plans, because if not, then you have to bear the consequences… So it becomes a pejorative term (and I wonder why Roy does not mention this in his thesis), and is used to stifle democratic aspirations. After the fall of Soeharto and the Reformation in 1998, it is thrown into the wastepaper basket. Democratic ways of achieving consensus becomes the new norm, including the election of leadership. In many congregations of the Javanese Christian Church (abbr: GKJ), which is originally Gereformeerd, the practice of calling of a candidate for the ministry is now done in a democratic way. More than one candidate is available, and the whole congregation goes into the voting-room to decide which one is going to be their minister. There is no consensus without a democratic consensus.

Conclusion

At the end of his paper, Koffeman re-iterated his conviction that church law is still needed. "We need a theological and critical approach to church law to fight legal conservatism. We need an ecumenical approach of church law in order to fight confessional narrow-mindedness. We need a missionary approach of church law in

order to fight introversion. We need a contextual approach to church law in order to fight uniformity. And we need a juridical approach to church law in order to fight legalism" (p.9). If this kind paper were in circulation during the debates on "the list of courses to be dropped" above, surely church law would have stayed! I think all would agree that the negative attitudes above are also rampant in our churches, and we still have to struggle to overcome them. Still I think the issues could be dealt with in the now existing courses in the curriculum of Indonesian theological schools, and does not necessarily mean that we should put church law as a course, back in the curriculum. For instance, an ecumenical approach to church law could be given in the course "Ecumenics", when it comes to the discussion on the problems that are faced when two or three churches decide to merge into one (as in the case of the Indonesian Christian Churches (abbr: GKI). However, the most burning issue, which is the relation between "the law" and "church law", needs to be resolved first, before we can talk again about the relevance of church law in Indonesia. I am grateful for Leo Koffeman's paper, which inspired me to bring back reminiscences of the recent past, and try to make something of them.

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(Emanuel Gerrit Singgih is minister in the GPIB, and is also professor in theology at the Theological Faculty, Duta Wacana Christian University, Yogyakarta, Indonesia. He specializes in Biblical (OT) Interpretation and Contextual Theology. His publications are almost all in Indonesian).