

Critical Study on Indonesian Criminal Law: Articles Related to Religious Protection in the Perspective of Maqashid Sharia

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Abstract. This research is aimed to criticize four articles in Indonesian Criminal Law (KUHP) which have relation to religious protection using qualitative research method and maqashid Sharia analytic theory. This analytic theory is considered fit and proper to be used as critical study on articles in the criminal code. The result of this research shows that among the articles related to the religious guardian, some are still relevant to be applied in the law, some need clearer provisions and limitations, longer imprisonment period, and some need to be adjusted to current values. It is necessary that the criminal code have more active roles in establishing stability and harmony among different religious believers, maintaining the unity of the country in the frame of religious diversity. All those things are the actualization of why religion or maqashid Sharia is taught.

Keywords: Critical study; KUHP; Religious protection; Maqashid Sharia.

1. Introduction

Various factors may cause disputes among different religious believers in a country; one is inequality experienced by certain groups of believers. Among the newest cases of religious disputes is the bloody clash between Muslims and Hindus in New Delhi. Tens of people had to die, and several mosques were destroyed. This was triggered by the decision made by the Indian government, which is dominated by the Hindus Nationalist Party and Bharatia Janata Party (BJP) that allowed non-Muslim citizens from Bangladesh, Pakistan, and Afghanistan who entered India illegally to get Indian citizenship. This anti-Muslim regulation is considered unconstitutional and puts 200 million Muslims in India into deeper marginality [1].

It is also considered very discriminating and against the nation's secular constitution. Indonesia, as a democratic country that is based on the almighty God, is very serious about protecting all religions. Several regulations and laws have been made to keep the peace among religious believers. One of the laws is the 1945 Constitution of the Republic of Indonesia article 29 verse 2, which explicitly guarantees every citizen freedom of religion and worship by his religion and belief. However, various violations may result in riots or national disintegration. Therefore, it is necessary to have Criminal Law (The Criminal Code or KUHP) that regulates religious protection, a regulation that gives justice with no discrimination to all religious believers [2].

The problem is that Criminal law is the legacy of Dutch colonialism, which does not refer to the values of Pancasila and the 1945 Constitution of the Republic of Indonesia. For example, religious-related cases are not specifically regulated; instead, they are put as a part of public order. As a result, there has been an idea to renew the Criminal Law to regulate cases related to religion and blasphemy specifically. This idea is based on the national ideology of Pancasila and the 1945 Constitution of the Republic of Indonesia that, put the religions and values of deities in the highest place [3].

The idea of creating national Criminal Law has been imminent. In the end, the draft of the national Criminal Law was resulted and was planned to be legalized on 24 September 2019. However, the president of the Republic of Indonesia instructed to postpone the legalization. This was due to several issues related to substances in the law that needed to be revised. In addition, mass media highlighted controversial sides of the law draft, which prompted various demonstrations in several places that rejected the draft to be legalized. This phenomenon motivated the writer to conduct the research, especially on articles related to religious protection [4].

The writer chose to analyze several articles in Criminal law related to religious protection

because the principle of Indonesia in the first principle of Pancasila is belief in the almighty God, and the 1945 Constitution of the Republic of Indonesia article 29 verse 2 gives freedom to all Indonesian citizens to practice their religions and beliefs. The law is applied to protect religions. This purpose is by one of the Maqashid Sharia, which is *hifdzud diin* or protecting the religion. This is the utmost point of things that must be protected in religion [5].

This discussion is urgent because it is a form of public participation in increasing the quality of several articles in Indonesian Criminal Law, especially those related to religious protection. Some articles are considered to create public controversy. Besides, it is important to maximize the role of those articles when they are implemented so that unity and harmony among people from different religions can be achieved. In the end, it will result in national security and stability. It is a form of implementing maqashid Sharia, which Islam requires to be protected and preserved.

Among the prior research collected by the writer on the critical study of existing laws in Indonesia is Criticism of Article 156A of the Criminal Code from the Perspective of Democratic Life in Indonesia. 13 This research was conducted by Dian Andriasari, of the Law Faculty of Bandung Islamic University. The purpose of the research was to identify the application of Article 156a of Indonesian Criminal law and its implication toward the lives of democratic Indonesian citizens and to discover the prospect of configuring cases on religions from the perspective of its constituent. The writer then concluded that the implementation of the article had some weaknesses; one was the presence of contradictory elements to democracy. The writer also concluded that the problem started from the incongruence between the articles and the religious freedom guarantee [6].

Another research on legal critical studies entitled *The Transformation Model of Jinayah Fiqh into National Criminal Law: Nadzariyat al-'Uqubah's Criticism of Criminal Code Materials*. This research was published in *Law Journals* Volume 47, 2 April 2018. The research aimed to analyze the urgency of transforming fiqh jinayah into national criminal law. Besides, it was also aimed to know the transformation paradigm and the model of Islamic Criminal Law in relation to Indonesian Criminal Law renewal. Among the research conclusions was that Islamic Criminal Law had the urgency to be accommodated into National Criminal Law based on the philosophical basis and argumentation. The writer also concluded that the most appropriate and suitable style to combine fiqh jinayah and National Criminal Law was the model of *mawashi istishlahy* [7].

The other research was *Criticism of Islamic Law on Criminal Sanctions for Prostitutes in Regional Regulations*. This research was published in *Al'adalah Journal*, vol. 14 no.1, 2017, and conducted by Nasrullah and Aden Rosadi. The main discussion of the research was the provisions in Regional Regulations related to prostitution in Indonesia through the perspective of Positive Laws and Islamic Criminal Laws. From this research, it is clear that there are contradictions between Regional Regulations and Indonesian Criminal Law. Among the contradictions are determining who is responsible for this issue, setting provisions when the authority arrests the wrong persons, and setting the punishment. Those are issues found by the writer regarding criticism of laws applied in Indonesia [8].

Two of those three researches used the perspective of Islamic law, while the other used the perspective of Indonesian democracy. Meanwhile, this paper is different in three aspects. The first is from its approach. This paper uses the maqashid Sharia model approach, considered the most appropriate approach for this critical study. Second, the main point of the discussion is on the articles in Indonesian Criminal Law that contain religious protection. And the third is the proposal on limitations and provisions that the writer considers to be a proper addition to those articles to bring more benefits [9].

This research is conducted with several purposes. One of them is to identify the weaknesses in the articles about religious protection and offer solutions. Besides, this research is intended to be a form of participation in improving existing laws in Indonesia. This is a statement from Topo Santoso, one of the Professors of Criminal Law at the University of Indonesia. He stated: "Therefore, lawmakers should not categorize certain acts into crime too easily. Here, the public's participation is very important."

2. Method

The research methodology chosen by the writer is qualitative and library research. The writer refers to credential books, journals, and sites in the process of writing. The writer collected articles containing religious protection in Indonesian Criminal law, analyzed them, and described the content, citing the interpretation of law experts. Then, the writer analyzed the articles using the *maqashid Sharia* approach, finding the parts that needed to be reviewed before drawing a conclusion and proposing betterment [1].

Theoretical analysis. The theory chosen for this research is *maqashid Sharia*. It is chosen because this theory is built on public benefits. It is a theory whose benefits can be felt and understood by common people, let alone by experts. Imam Asy-sahib said: "So it is confirmed that the Dzat that set Sharia has willed to set various rules for establishing the benefits for both in this world and the hereafter." [10]

Implementing the *Maqashid Sharia* theory plays an important role in establishing public welfare. It is explained that: *Maqashid Sharia* is the reference for experts or *mujtahid*. Whoever faces one side of it, he sees the truth." Some researchers even use this theory when analyzing the content of laws. Therefore, the writer believes this theory is appropriate for analyzing some Indonesian Criminal law articles.

3. Results and Discussion

The history of Indonesian Criminal law. Before starting to expose some quotes from the articles in the criminal code regarding religious protection, the writer wants to describe a little background of the emergence of the law. When the Dutch colonized Indonesia, there was dualism in the laws. The first was the law from the King of the Netherlands and was applied to the Dutch and the European citizens who lived in Indonesia and was valid as of 1 January 1867. The second was the law for Indonesian citizens and other people from Eastern countries and was valid as of 1 January 1863. Hence, there were two different laws applied during the period. Several years after the dualism in the law, the Kingdom of the Netherlands issued a king decree, which also included criminal law, on 15 October 1915. With the issuance of the decree, the Dutch colonial compiled a new set of criminal laws named *Wetboek Van Strafrech Voor Nederlandsh Indie (W.V.S)*. Then, on 1 January 1918, the Dutch colonial applied this new law in Indonesia to replace the previous law. This law was applied to all people who lived in Indonesia [6].

This law was still valid after Indonesia declared its independence on 17 August 1945. Six months after the independence, 26 February 1946 to be exact, the government of the Republic of Indonesia decided to apply the existing law in all areas of Indonesia, except in some areas only [11]. Then, as of 29 September 1958, the law was applied in all areas of the country. The script was still in Dutch, yet to be translated into Bahasa. As a consequence, there were several differences in the translated script. The original name of the law was *Wetboek Van Strafrech (W.V.S)* or in Bahasa known as *Kitab Undang- Undang Hukum Pidana* (Indonesian Criminal law) abbreviated as *KUHP*. Since applied in 1958, the government of Indonesia has always tried to renew the *KUHP*. Among the efforts was establishing National Law Development Agency or *Lembaga Pembinaan Hukum Nasional* to renew the *KUHP*. In 1963, a national law seminar was held and attended by experts. They reached an agreement to renew the *KUHP* very soon. The effort was followed up in 1968, 1971, 1981, 1983, and so on up to this day. It shows that there are things to be revised in *KUHP*, and there is goodwill from the government to make betterment.

This *KUHP* consists of three books with 569 articles. All those three books are printed in one book. The first book contains general provisions regarding the law, such as incriminatory and exculpatory subjects. The second book contains violations, such as crimes that threaten national security and others. The third book contains misdemeanors, such as misdemeanors against public

order, authority, morals, or others. That was a glance review of Indonesian Criminal law (KUHP) from time to time in this country [12].

Articles on Punishment for Instigators of hostility, abuse, or blasphemy. Article 156a of KUHP says: Article 156a by a maximum imprisonment of five years shall be punished any person who deliberately in public gives expression to feelings or commits an act: which principally have the character of being at enmity with, abusing or staining a religion, adhered to in Indonesia; to prevent a person from adhering to any religion based on the belief of the almighty God.

This article covers several subjects. First, the prohibition of triggering enmity between groups of religions deliberately. Second, the prohibition to abuse religions, acts that could provoke the anger of people of certain religions or insult them, such as destructing public facilities in the name of *Amar ma'ruf nahi munkar*. Third, the prohibition to deliberately stain religions in public, acts, or speeches that contain insults to a certain religion or its symbols, such as insulting God, prophets, or the holy book. Whereas describing a certain religion in written or verbal with a commitment to objectivity and science and avoiding provoking or insulting words is not considered a crime in this article. Fourth, the prohibition prevents a person from adhering to any religion based on the belief of the almighty God. Fifth, set the punishment for those who have committed one of them with a maximum imprisonment of five years.

In general, the content of this article brings benefits because it shows signs of acknowledgment of religious and belief diversity, which is one of *sunnatullah*, as God says: "And if your Lord had willed, He could have made humanity one community; but they will not cease to differ. Except whom your Lord has given mercy" It also contains an effort to maintain public security and order, one of the *maqashid Sharia* that must be kept. In addition, within the article, there is the application for the principle of *Sharia*, "There should be no harm and do not harm others." The principle of Continuous benefits should come before temporary ones. Dealing with the language used in the script of the law, the Ministry of Law and Human Rights of the Republic of Indonesia has published the appropriate language used for regulation on its website. It is explained that there are seven principles of using language for regulation, one of which is clarity.

Marius Widjajarta, director of Indonesian Health Consumers Empowerment (YPPKI), when interviewed by *Harian Nasional* in Jakarta on 15 March 2017 regarding the law on highly potent drugs, said: "When there is no strong legal basis, how could the police and the judge punish them." 36, he emphasized the importance of clear and direct language in the law script. With clear regulation, ambiguity in interpreting the law can be avoided. Based on the explanations proposed by the experts, the writer sees that the implementation of this article should be reviewed, especially regarding the limitations and provisions. This is important to establish harmony among people from various religions, to avoid enmity, and to achieve national security and stability. With a clear definition of the limitations, it is easy for everyone to understand the law. On the contrary, ambiguity will result in multiple interpretations [13].

Related to religious abuse, the writer thinks that there should be an addition to the article saying that: the abuse brings harm and public instability, and it is in the form of acts or speeches that hurt a religion; people adhere to it and harms the religious harmony in Indonesia. This is by the principle of (the harm should be eliminated) and the principle of (There should be no harm and do not harm others). Related to blasphemy, the writer suggests that some additional provisions should be included; First, the purpose of discussing a certain religion is to seek the truth and define the bad or to give a secure feeling to people who adhere to it. Second, it is not intended to insult or abuse a certain religion. Third, discussing religion and its weaknesses is allowed based on the belief of the doer. Fourth, it is not the cause of public chaos. Fifth, it does not ruin the harmony among people from different religions. Sixth, be very cautious in selecting dictions and expressions to avoid friction among people from different religions.

With those additional limitations and provisions, it is expected that the law can play an important role in creating harmony among the citizens of Indonesia. Punishment for Ridiculing Officers of Religions or Jeering at Objects Dedicated to a Divine Worship Ridiculing officers of

religions is regulated in article 177, which says: By a maximum imprisonment of four months and two weeks or a maximum fine of one thousand and eight hundred Rupiahs shall be punished: any person who ridicules a minister of the religion in the lawful observation of his service any person who jeers at objects dedicated to divine worship, where and when the exercise of said worship is lawful.

From this article, it is understood that KUHP has prohibited ridiculing or jeering officers of religions when acting in their authorized duties. In the explanation of KUHP, R. Soesilo defines officers of religions as marriage officials who handle marriage, Modin whose responsibilities are taking care of religious affairs in public, pastors, domine, pedenda, and others. From the explanation, the prohibition in this article generally covers any officers of religions that are not allowed to be ridiculed [14].

Besides, this article also prohibits any acts or speeches that contain insult or mockery on objects dedicated to divine worship in their worship place or when used in practice. R. Soesilo also stated a limitation in implementing this article: when those objects are used in legal worship places. The objects in the article include the holy Al-Qur'an, Bible, incense furnaces, sculptures, and others. Should any jeer arises within those conditions, the article applies [15]. Those two abovementioned ridiculing and jeering officers of religions and objects dedicated to divine worship are regulated by the law and set to have imprisonment for four months and two weeks or a maximum fine of Rp. 1.800 as a sanction for those who violate it.

The writer thinks that the prohibition is by maqashid Sharia in several aspects. In its Sharia, Islam prohibits one from ridiculing others. As mentioned in Al-Qur'an: O you who have believed, let not a people ridicule [another] people. (QS. Al Hujurat 11). Imam Ibnu Katsir explained that Allah prohibits His believer from ridiculing others in this verse, which is insulting and mocking others. Clearly, in this verse, the prohibition is generally not only for certain groups of people. Hence, ridiculing officers of religions and objects dedicated to divine worship is included.

The prohibition in that verse is strengthened by a hadith of Prophet Muhammad (PBUH) that prohibit violation against non-Muslims who had a peace treaty with Muslims. Prophet Muhammad said: "Whoever wrongs a mujahid (non-Muslims who are committed to living peacefully with Muslims), violates his rights, burdens him with more work than he can do, or takes something from him without his consent, I will be his prosecutor on the Day of Resurrection." In this hadith, Prophet Muhammad PBUH warned his ummah not to violate anyone, even those who had not converted to Islam. Besides, there is a principle in fiqh: There should be no harm and no harm to others. In other words (*harmful things should be eliminated*) Whereas ridiculing officers of religions and objects dedicated to divine worship are included in subjects that harm harmony among people from different religions and may be the source of public insecurity and instability. Those all are in maqashid Sharia that is ordered to be kept.

Although implementing this article will bring many benefits from the perspective of maqashid Sharia, the sanction of Rp.1.800 (one thousand and eight hundred Rupiahs) fine is considered a very small amount. Therefore, the writer sees that the fine amount should be reviewed. The amount of the fine needs to be bigger and cheaper. It is not worth it compared to the position of religion as the source of happiness, the basis of security, and the foundation to achieve national stability. If all citizens are committed to religion, there will be peace and harmony. On the other hand, when people ignore religions, there will be chaos, disharmony, and enmity [16].

Besides, from the perspective of Maqashid Sharia, applying the fine is not appropriate. Among the maqashid Sharia is the spirit of maintaining dharuriyat khums, maintaining public order, and creating a deterrent effect to minimize the number of crimes. In addition, one of the maqashid Sharia of implementing punishment is to achieve blessing and justice. Allah SWT has stated that Prophet Muhammad is a man with great blessing. Allah said: And We have not sent you, [O Muhammad], except as a mercy to the worlds. (QS. Al-Anbiya' 107). Syaikhul Islam Ibnu Taimiyyah said: The punishment implemented in the Sharia is merely a form of God's blessing to His believers. The punishment comes from Allah's compassion for His creatures and willingness to give them good. "...as a doctor who wants his patients recovered."

When a doctor gives an appropriate dose of medicine for a certain disease, then with Allah's permission, it will benefit his patients. If the dose is insufficient, the medicine will not work maximally to cure the disease. Therefore, the writer suggests that the amount of the fine be raised or doubled to give a deterrent effect to the violators. This is one way to achieve public security. That way, the maqashid Sharia of the punishment can be achieved.

The effect of the punishment is intended for not only the doer but also the public so that they can learn from it, and everybody will think twice before they decide to do abuse or violation. A happy man is a man who takes advice from others. On the contrary, if the punishment is too lenient or the fine is too small, the public will not learn from it. Meanwhile, if the punishment is light or the fine is of a low nominal, it is not a warning to those who know about it.

Article on Punishment for Causing Tumult Near Buildings Destined for a Lawful Divine Service Related to causing tumult near buildings destined for a lawful divine service, article 503 regulates this: By a maximum light imprisonment of three days or a maximum fine of Rp. 250,00 (two hundred and fifty Rupiahs) shall be punished: (2) Any person who causes tumult near buildings destined for a lawful divine service or the administration of Justice during a service or: session.

In this article, it is understood that the law has prohibited attitudes or acts that cause tumult near buildings for divine service during a service or session. R. Soesilo explained that in this article, tumult is defined as a sound that can make people feel uncomfortable; among them is the presence of disturbance and deliberate action for frolic. He also added that the sound produced by an operating factory, work, or feast is not categorized as a violation in this article. From this explanation, it can be seen that this article is not absolute; it has limitations.

On one side, this article is about a principle in Islam not to disturb neighbors. In Sharia, causing a disturbance is prohibited, as mentioned in a hadith by Abu Hurairah that Prophet Muhammad PBUH said: "By Allah, he is not a believer! By Allah, he is not a believer! By Allah, he is not a believer." It was asked, "Who is that, O Messenger of Allah?" He said, "One whose neighbor does not feel safe from his evil."

The word neighbor in this hadith includes neighbor in general meaning. Thus, if this article is applied, it will bring many benefits. Besides, it will also contribute to creating harmony among people from different religions, public stability, and public security. Those things are among the maqashid Sharia that must be kept and protected.

The principle of living in harmony with people from different religions has also been described in Al-Qur'an and Sunnah. Among them are made huriyatil I'tiqad (the principle of freedom to adhere to religions and beliefs), made at-Tasamuh (the principle of tolerance), made at-Ta'awun (the principle of helping others), made al-Adl wal Ihsan (the principle of justice and goodness), and made al-Msaawah (the principle of equality). When all people from different religions apply those principles, then with God's will, there will be harmony and peaceful lives.

On the other hand, seen from the punishment stated in the article, only three days of imprisonment and Rp. 250,00 Fine, the writer believes it is very lenient. The writer thinks that the three-day punishment will not give violators lessons and will not prevent them from repeating their actions. Therefore, the writer suggests that the period of imprisonment be doubled, giving a deterrent effect to the violators. The amount of the fine should also be adjusted considering the value of the currency. Article on Punishment for Making Business of Prophesying or Explaining Dreams The KUHP regulates people who make business of prophesying or explaining other people's dreams. Article 545 says: Any person who makes a business of fortune telling, prophesying, or explaining dreams, shall be punished by a maximum light imprisonment of six days or a maximum fine of three hundred Rupiahs.

This article contains a prohibition to making prophesying a business. R. Soesilo explained that the reason behind this article's implementation is that many Indonesian people still believe in superstitions or others. This kind of belief is still common in villages. He also added that the main purpose of this article is to keep and protect people from being fooled by swindlers who use prophecy and dream explaining to get money.

From the explanation of this article, it can be seen that the intention behind its implementation is maqshid Sharia, which is hidden diin (protecting religion) to protect people from falling into deceptive beliefs. And protecting religion is the most important and urgent maqshid, Sharia. Besides, this article contains a handful 'aql (protecting common sense) that can be seen from the effort to public's common sense from being contaminated by deceptive thinking like believing in dreams, horoscopes, or others. Hifdzul Maal (protecting welfare) is also inferred in this article as the implementation of this article can protect someone from material loss caused by swindlers who use prophecy and dream explanations to manipulate others. Therefore, this article is in line with maqshid sharia [17].

Although this article brings goodness and benefits when applied, the writer thinks there are some subjects to be revised; among them is the phrase "does business." If this phrase is used, the punishment will only apply to those who use prophecy as a business. Many of those people practice prophecy with no explicit tariff. Hence, it would be difficult to prove that the swindlers ask for money [18].

Besides, even without the phrase "does business," the practice of prophecy and dream explaining brings disadvantages from the point of view of maqshid Sharia of Ifsadul Diin (ruining religion). The fortune tellers have contributed a lot to ruining people's beliefs. As a result, people will fall to shirk, asking for help from devils and others, and finally slip away from the path of God. Allah Almighty said: Destroyed are the falsifiers. Al'Allamah Muhammad Jamaluddin Al-Qasimi said: "Cursed are those who choose prophecy and ignore true postulates" From this point of view, it is against the hifdzul diin (protecting religion).

What the fortune tellers do also contain ifsaadul 'aql (destroying common sense). It makes people dream about uncertain things, dependent on shamans, prophecy, and others. At the same time, common sense is a great blessing given to humans to be protected. The presence of common sense is what makes people different from animals. It is said that: Common sense is the tie to the soul (to do goodness and avoid badness). Another statement: Common sense is like a shield that protects (protecting from various badness). Therefore, common sense is placed in a very high position in people's lives.

One of the negative effects of fortune tellers and oneirocritics or dream interpreters is ifsaadul maal (destroying welfare). It is the cause for people to spend money paying those shamans, fortune tellers, and others for their service. This is contradictory to Hifdzul maal (protecting welfare). Our welfare is what Allah has given us and should be collected in a syar'i way and spent in a syar'i way too. It is one of the questions to be asked hereafter [19]. Where did you get your money, and what did you spend it on? Based on the aspects mentioned above from the perspective of maqshid Sharia, the writer suggests that the phrase "makes a business" be omitted so that the law has greater coverage and to prevent people from getting involved in those activities [20].

In article 545, it is stated that those who violate the regulations will be punished by a maximum imprisonment of six days or be fined with Rp. 300,00 (three hundred Rupiahs). From the writer's perspective, this punishment should be reviewed. The punishment is relatively lenient compared to the bad impact resulting from fortune telling and dream interpreting. Six days of imprisonment will unlikely stop someone from repeating his actions. Moreover, when the action is already part of his belief, a principle in maqshid Sharia is to give a deterrent effect. Therefore, the writer believes imprisonment should be lengthened to achieve the main purpose of the punishment.

Besides imprisonment, the writer thinks it is necessary to give spiritual accompaniment to the convicts during the period to minimize and eliminate deviation in their beliefs. Sheikh Shahih al-Fauzan in his book al-Mulakhkhosh stated: There is a possibility in people who move away from badness that has become their habit of having still the remnant of the habit to eliminate that remnant, a collaboration between the police and the local religious figure is needed. It is important to give guidance and counseling and break his syubhat. Guidance and counseling are still needed even after he leaves prison, so follow-up action remains to keep that person on the correct path [21].

Related to the amount of the fine, the writer sees that Rp. 300,00 is a very small amount of

money in this era, considering that religion is important in human life and the source of happiness. Religion is also the cause of public security and stability. Besides, religion is the first subject to be protected, as mentioned in *Maqashid Sharia*. Therefore, the fine amount should be adjusted to the current value. As a result, people will be very cautious to avoid committing mistakes considering the heavy punishment. While for those who have experienced the punishment, it will prevent them from making the same mistakes [22].

4. Conclusions

Criminal law (KUHP) in Indonesia is not the product of the Indonesian. Still, the legacy of the Dutch colonial colonized this country for three hundred and fifty years. Therefore, it is normal that some articles in it should be reviewed, especially from the perspective of *maqashid Sharia*. After the data analysis, the writer concludes that among four articles related to religious protection, some are still appropriate to be applied, like punishment for those who committed provoking actions. Some articles need additional provisions to clarify and avoid ambiguity, like those related to the abuse of religion or blasphemy. Some punishment of imprisonment needs to be lengthened to create deterrent effects. Dealing with fine punishment, it is necessary to adjust the fine amount with the current value, considering the currency has been through significant changes so that the punishment can prevent actions that destroy religions. Finally, the writer suggests to those who are responsible for revising KUHP to make revisions on articles that are related to religions so that those articles can play an important role in creating unity in the Republic of Indonesia, protecting it from actions that break the harmony between people from different religions and resulting good cooperation. Apart from the different religions people are adhered to, they can still work together to achieve public benefits and goodness because it is the purpose of the religion of *maqashid Sharia*.

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