



Halili [writer], Sudarto [editor], Evelyn Nadya [translator]
Esti Nuringdiah [language editor], Bonar Tigor Naipospos [expert reader]

Intolerance Supremacy

**The Report of Condition of Freedom of Religion/ Belief
and Religious Minorities in Indonesia in 2016**



PUSTAKA
MASYARAKAT
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INTOLERANCE SUPREMACY

The Report of Condition of Freedom of Religion/ Belief
and Religious Minorities in Indonesia in 2016

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WRITER	Halili
EDITOR	Sudarto
TRANSLATOR	Evelyn Nadya
LANGUAGE EDITOR	Esti Nuringdiah
EXPERT READER	Bonar Tigor Naipospos
RESEARCH TEAM	Andrian Habibi (Jakarta) Inggrit Ifani (Jakarta) Aminudin Syarif (Jakarta) Ahmad Fanani Rosyidi (Jakarta) Ismail Hasani (Jakarta) Kahar Muamalsyah (Central Java) Syamsul Rahman (West Nusa Tenggara) Nurhasanah (North Sulawesi) Cucu Sutrisno (Yogyakarta) Rokhmond Onasis Gohong (Central Kalimantan) Muhammad Fauzan Azim (West Sumatera) Abdul Hamim Jauzie (Banten) Suryadi Radjab (West Java) Roudhotun Ni'mah (East Java)
DESIGN-LAYOUT	Titikoma-Jakarta
PUBLISHER	Pustaka Masyarakat Setara Jl. Hang Lekiu II No. 41 Kebayoran Baru Jakarta Selatan 12120 - Indonesia Telp. : (+6221) 7208850, Fax. (+6221) 22775683 Hotline : +6285100255123 Email : setara@setara-institute.org, setara_institute@hotmail.com Website : www.setara-institute.org



Preface

One of SETARA Institute's organizational mandates is to promote, maintain and strengthen the diversity of Indonesia. Since 2007, this organization has been consistent in compiling reports on the conditions of freedom of religion/ belief in Indonesia. This consistency is not only evident on the Institute's strategic methods to present knowledge and the latest data updates each year, but also on its human rights paradigm to measure the situation and condition of freedom in a country. Such paradigm is believed to be the most objective method which enables State accountability mechanisms, both domestic and international.

Domestically, the State is constantly obligated to improve policies to gain compliance and policies that are conducive to strengthen the freedom of religion/ belief as a constitutional mandate that is ingrained within the State. This obligation is also parallel with the ratification consequences of the International Covenant on Civil and Political rights which has been approved by Law No. 12/2005. Moreover, at the domestic level, State elements are obliged to take legal actions to law violators who constantly commit acts of intolerance, discrimination and violence. They should be prosecuted for their criminal acts.

Internationally, reports made by SETARA Institute also serve as references in order to compile the Universal Periodic Review (UPR), which is regularly organized by United Nation Human Rights Council (Badan Hak Asasi Manusia Perserikatan Bangsa-Bangsa/ HAM PBB), both as materials to compile shadow reports for civilians and as alternative references for State parties who have issues with the official

government reports regarding the conditions of freedom of religion in Indonesia. Through the UPR, international mechanism functions to demand State accountability to uphold its generic responsibility to respect, to protect and to fulfill human rights.

The report's title, Intolerance Supremacy, is to depict the situation in 2016 where we were able to witness how intolerance became more supreme than law and constitutional supremacy. Crowd mass became the source of legitimate truth. It could also influence the State elements to react. This situation of intolerance supremacy was strengthened by numerous catalysts in 2016 which generally occurred in the midst of political contestation and struggle for religious authority.

This 10th report on the conditions of freedom of religion does not specifically depict the dynamics over the last 10 years because the primary focus is to describe the actual situation that occurred in 2016. However, several issues and concerns which constantly occurred over the last 10 years and required extra attention, still obtain a sufficient portion of exposure.

Although this research report is based on the observation of events, there is a probability that it oversees some facts as the actual events may have exceeded what had been successfully observed.

In conclusion, SETARA Institute would like to thank all parties who have supported the publication of this report, especially to the researchers and observers in various regions.

We hope you enjoy reading this research paper.

Jakarta, 20th of January 2017

Setara Institute Chairperson,

H E N D A R D I



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CHAPTER I

Introduction

A. Background

2016 is the 10th year SETARA Institute conducts research and monitors the condition of freedom of religion/ belief in Indonesia. From this year forward, SETARA Institute will pay special attention to religious minorities in addition to macro conditions of freedom of religion/ belief, which are motivated at least by some of the following factors.

First, conceptually, democracy is a system of governance run by the power of majority rule to ensure the protection of the rights of the minorities. Human Rights, including the rights of the minorities, are intrinsic parts of democracy.¹ Thus, Indonesia as a democratic country should constitute the rights of the minorities as an integral part of the political, legal, and social system.

Second, the philosophical ideal of Indonesia as an independent country is all for one (Indonesia) and one for all. The five nationalist principles (*Pancasila*) and the national motto of Indonesia, Unity in Diversity (*Bhinneka Tunggal Ika*), boldly depict State politics that are open to all elements forming the nation-State, in various sizes and quantities. The articles of the State constitution, the 1945 Constitution,

¹ Beetham, David. *Democracy and Human Rights* (Cambridge and Malden: Polity Press, 2000), Page 93.

either in their forms as *rechtsidee* or as *staat fundamentalnorm* affirm the basic framework of “one State for all”, idealized by the founders of the nation-State and intrinsically outlined in the State philosophical foundation and motto. Therefore, the politico-legal regulation in the level of governance must be built on the philosophical and constitutional foundations.

Third, in the level of its legal derivative, Article 27 of the International Covenant on Civil and Political Rights (ICCPR), which has been ratified to Law No. 12 of 2005, specifically guarantees the minority rights. Hence, the enforcement agenda should be the concern of all parties that the law is not solely be the protector of the majorities but also be the protector of those who are anthropologically considered as minorities.

Fourth, according to SETARA Institute’s research and observation data or report, which is currently in the hands of the reader, statistically from 2007 to 2016 minorities constitute the primary victims of acts and incidents of violations against freedom of religion/ beliefs.

Protection of the religious minorities’ rights conditions certainly cannot be separated from the freedom of religion and belief conditions. Fulfillment of religious minorities’ rights should be in line with the fulfillment of basic rights to freedom of religion/ belief. Relationally, freedom of religion/ belief intersects with the freedom of religion/ belief which is guaranteed adequately as an individual right in various international human rights instruments.

Rights of freedom of religion/ belief are substantively regarded as non-derogable rights in which individual rights fulfillment cannot be reduced and cannot be delayed. Therefore, freedom of religion/ belief for both individuals and groups must be guaranteed by the State.² The principle of non-derogable rights affirms absolute rights and therefore cannot be suspended or postponed in any situations and circumstances.³

2 Davis, Derek H., *The Evolution of Religious Liberty as a Universal Human Rights*, republished on December 5, 2006.

3 The rights in the principle include: the right to life (to not be killed), the right of self intact (to not be tortured, kidnapped, ill-treated, raped), the right to be free from slavery, right of freedom of religion, thought and belief, the right to be treated equally before the law, the right not to be imprisoned on the ground of his/ her failure to fulfill a contractual obligation and the right not to be criminalized due to the retroactive

Accordingly, constitutional structure of Indonesia provides extra guarantees to implement freedom of religion/ belief. Such guarantees can be found in the basic norm (*grundnorm*) of national legislation and the legal foundation of the State (*staat fundamentalnorm*).

As the philosophical foundation of the State, Pancasila has given philosophical and moral guarantees of freedom of religion/ belief which is confirmed in the first principle. In reality, this most important principle is often interpreted paradoxically. On one hand, the first principle is defined as the principle that accommodates meta-spirituality of religion. On the other hand, it is often interpreted as a formula that refers to the formalistic diversity as well as a legalization of the dominant religious community. Another interpretation of the first principle is that it is considered as a religious philosophical foundation which refers to the extraction of the *Tauhid* concept which means it is reduced in order to protect the quantitative majority of a certain religion in Indonesia, in this case, Islam.

The legitimate and sublime reference in reading and interpreting the first principle of Pancasila was the statements delivered directly by the founders of the nation in the trial of Investigating Committee for the Preparation of Independence (*Badan Penyelidik Usaha Persiapan Kemerdekaan Indonesia/ BPUPKI*), in particular at the plenary meetings regarding the formulation of the philosophical foundation of the State. One of the statements was delivered by Sukarno, as the main founder of Pancasila. Sukarno, the Son of Dawn, provided a straight forward affirmation of the divinity principle when outlining the principles of Pancasila on June 1, 1945.⁴ He stated that:

Principle of Divinity! Not only should the people of Indonesia have beliefs in God, but every Indonesian should believe in his own particular God. Let us all have beliefs in God.

law. In that sense, all types of acts which may cause the annihilation of someone's or a group of people's rights of freedom of religion – as an element of non-derogable rights – can be categorized as human rights violations. See also Ismail Hasani dan Bonar Tigor Naipospos (eds), *Mengatur Kehidupan Beragama; Menjamin Kebebasan Beragama? Urgensi Kebutuhan RUU Jaminan Kebebasan Beragama/Berkeyakinan*, (Jakarta: SETARA Institute, 2011).

4 After the fall of the de-soekarnoization project undertaken by Soehart's rezime, we colossally agreed to reclaim June 01 as the Birth of Pancasila day.

*The Indonesian state shall be a state where every person can worship God in freedom. All people should culturally believe in God, without 'religious egoism' and the State of Indonesia should be a State incorporating the belief in God.*⁵

As the basic norms, ideals of law (*rechtsidee*), philosophical basis (*philosophische gronslag*), views of life (*weltanschauung*), national ideology, foundation of the State, as well as the source of all laws in Indonesia, Pancasila should be implemented in a more operational, concrete, and binding constitutional guarantee. Such guarantee is stated in our constitution, the 1945 Constitution of the Republic of Indonesia (*Undang-Undang Dasar Negara Republik Indonesia/ UUD 1945*).

In the 1945 Constitution, there are some provisions which guarantee the rights of citizens to religion and belief. There are at least two Articles in the 1945 Constitution which can be identified as articles that provide direct guarantees of freedom of religion for everyone, a citizen or non-citizen. The two provisions are the Article 28E and Article 28I, as the following:

Article 28E of the 1945 Constitution

- (1) *Every person is free to worship and to practice the religion of his choice, to choose education and schooling, his occupation, his nationality, his residency in the territory of the country that he shall be able to leave and to which he shall have the right to return.*
- (2) *Every person has the right to be free in his convictions, to assert his thoughts and tenets, in accordance with his with his conscience.*

Article 28I, paragraph (1) of the 1945 Constitution

- (1) *The rights to life, to remain free from torture, to freedom of thought and conscience, to adhere to a religion, the*

⁵ Sukarno's speech at the BPUPKI on June 1, 1945. See also Bahar, et.al [eds.], *Risalah Sidang BPUPKI dan PPKI*, (Jakarta: State Secretariat), pages 80-81, or Alam [ed], *Bung Karno Menggali Pancasila*, (Jakarta: PT Gramedia Pustaka Utama, 1995), page 28.

right not to be enslaved, to be treated as an individual before the law, and the right not to be prosecuted on the basis of retroactive legislation, are fundamental human rights that shall not be curtailed under any circumstance.

Article 28E of the 1945 Constitution provides guarantee for anyone to worship his/ her religion and beliefs freely. The provision implicitly declares freedom for anyone to religion and belief. At the same time the freedom of religion is also refined as a guarantee for every person to practice his/her religion according to his/her beliefs.

The guarantee in the 1945 Constitution shows that an individual's freedom of religion is an essential human right.⁶ It firmly states that freedom of religion is the most fundamental human right. In addition, freedom of religion is neither given by the State nor by any groups. Therefore, the State cannot and should not intervene on the religious matters of each citizen.⁷

With such a significant position, the religious rights are in line with the norms of universal human-rights which are categorized as non-derogable rights as stated in the Article 28I paragraph (1) of the 1945 Constitution. Thus, the right to religion/ belief cannot be reduced under any circumstances or cannot be revoked by anyone.⁸

In addition to providing guarantees and rights of religion/ belief as non-derogable rights, the 1945 Constitution also regulates the relationship between the State and religion as well as the status or position of the State in the context of respect and protection of these rights, as stipulated in Article 29 of the 1945 Constitution, as follows:

Article 29 of the 1945 Constitution

(1) *The state is based on the belief in the One and Only God.*

6 Script Compiler Team Comprehensive Amendments - Constitution of the Republic Indonesia 1945, *Naskah Komprehensif Perubahan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Latar Belakang, Proses, dan Hasil Pembahasan, 1999-2002, Buku VIII Warga Negara dan Penduduk, Hak Asasi Manusia, dan Agama (Edisi Revisi)*, (Jakarta: Sekretariat General dan Registrar of the Constitutional Court, 2008), page 286.

7 *Ibid.*, page 320.

8 *Ibid.*, page 320.

- (2) *The state guarantees each and every citizen the freedom of religion and of worship in accordance with his religion and belief.*

From these two articles, it can be observed that constitutional guarantees of freedom of religion are very substantial the 1945 Constitution. The constitutional guarantees are implicated in the perceptions (as well as the more detailed demand of derivative policy) as the following:

1. The state should guarantee the protection and the space for every citizen to practice his/ her religion and belief.
2. The State should not create any prohibitions and hindrances for citizens to practice their religions and beliefs.⁹

According to the provision of Article 29 of the 1945 Constitution, State constitutional responsibility is to protect the religious rights of every citizen. State has the obligation to guarantee freedom of religion/ belief as stated in Article 28E and Article 29 of the 1945 Constitution. They are in line with the mandate in the Article 28I paragraph 4 of the 1945 Constitution, which needs to be fulfilled by the State, especially the government. Article 28I paragraph 4 states that the protection, promotion, enforcement and fulfillment of human rights are the responsibilities of the State, especially the government. It means that the government is obligated to protect and respect human rights.

The government's obligations to protect, to promote, to fulfill and to respect the values of human rights as mandated in the Article 28I, paragraph 4 of the 1945 Constitution should be simultaneously implemented (when one obligation is fulfilled, other obligations must be fulfilled as well). At this point, government should be consistent in enforcing human rights.

Therefore, the obligations to provide security, protection, promotion of human rights, especially freedom of religion for every citizen belong to the State. The State should act as stakeholder of the obligations. It is not allowed to delegate the implementations of these obligations to any non-state actors. Consequently, when the

⁹ See Ismail Hasani (ed), *Dokumen Kebijakan Penghapusan Diskriminasi Agama/Keyakinan*, (Jakarta: Setara Institute, 2011), page 81.

implementations of the State obligations are carried out by non-state actors, violations against rights to religion and belief will occur. In addition, it will allow certain groups to act on behalf of religions to inflict violence against people of different beliefs.

Constitutional mandate derived from the philosophical foundation is reinforced with a variety of derivative instruments in the form of acts. Several laws which can be identified in its main framework are Law No. 39 of 1999 on Human Rights and Law No. 12 on the Ratification of the International Covenant on Civil and Political Rights. Thus, have such implementation of the constitutional guarantees been ideal?

This is where the problem lies. There are some tensions within the implementations of the constitutional guarantees. The disparity is highly visible between the *das sollen* constitution and the *das sein* government policies which are more specific, detailed, and concrete. The key issue to the implementations of the constitutional mandate of freedom of religion can be grouped in three main clusters.

The first cluster is the incongruence regulation. The central weak point in the incongruous guarantee of freedom of religion/ belief is Law No. 1/PNPS/1965 on the Prevention of Religious Abuse and/ or Defamation. The law was formed as the platform for the formation of several of its implementing regulations on managing religious life, such as 1) the Joint Decree of the Minister of Religious Affairs and the Minister of Interior No. 9 and No. 8 of 2006 on the Guidelines for the Duties of Mayor/ Vice Mayor for Inter-Religious Harmonization and the Empowerment the Inter-Religious Harmony Forum and the Building of the Place of Worship, 2) the Joint Decree of Minister of Religious Affairs, the Attorney General and the Minister of Interior No. 3 of 2008 No. KEP-033/A/JA/6/2008 and No. 199 of 2008 on Warning and Order to the Believers, Members, and or Board Members of the Indonesian Ahmadiyya Community (Jemaat Ahmadiyya Indonesia/ JAI) and Community Members, and 3) several regional regulations which often become the major triggers of some intolerant behaviors and discrimination acts against the religious minorities.

The second cluster is the poor capacity of the State institutional governance. The constitutional guarantees affirmed by the 1945 Constitution along with its law derivatives are ideally backed up by institutional structures which strengthen the implementations of the

constitutional mandate. However, in reality, the government created religious life problematizations in Indonesia through the establishment of institutions that actually negated the constitutional mandate and stimulated the acts of intolerance and discrimination against the citizens' religious lives.

The third cluster is the poor performance of the State officials. The State officials are often unable to inclusively interpret the guarantee of freedom of religion/ belief. Field officials are often unable and unwilling to protect the freedom of religion/ belief. Even in highly escalated chaos, they were not able to use the coercive instruments to provide human security for all religious believers and to prevent acts of intolerance against certain religious believers, particularly the religious minorities.

According to SETARA Institute, the three weak points either partially or cumulatively, are the main factors which stimulate violations and even crimes against freedom of religion/ belief. Therefore, the religious life in this State of Pancasila is not conducive enough. In fact, there has been an increase phenomenon of intolerance practices of religion/ belief within the last five years.¹⁰

Such background is one of the reasons behind SETARA Institute's yearly agenda to conduct a monitoring research and analysis of the actual situations of freedom of religion/ belief in Indonesia and present them in a report on the situations' progress or regress of freedom of religion/ belief, which is analyzed through human rights perspectives and it is provided with study cases of intolerance and discrimination of religion/ belief.

In addition, the previous reports since 2007 have shown the macro and micro poor conditions of freedom of religion/ belief in Indonesia. Several bleak portraits that have been depicted in the conditions of freedom of religion/ belief, among others are; the State's absence in almost all acts of violations, perpetrators of violations impunity, acts of violations omission and victims of violations abandonment. Thus this type of report finds its urgency and significance as a reminder to State officials to react, take measures, and restore the situations of freedom

10 See Ismail Hasani dan Bonar Tigor Naipospos (eds.), *Politik Diskriminasi Rezim Susilo Bambang Yudhoyono: Kondisi Kebebasan Beragama/Berkeyakinan di Indonesia 2011*, (Jakarta: Setara Institute, 2011).

of religion/ belief.

Moreover, at a praxis level, the accommodation of recent database and baseline national data which serves as a reference regarding religious life in Indonesia, is also a solid guideline to sociological formulation of the State legislation and policy in encouraging the promotion of human rights. This report is quite relevant as one of the references on the conditions of freedom of religion/ belief in Indonesia.

The monitoring research and the annual report publication are aimed to: [1] document and publicize facts of violations and breakthroughs / progress of freedom of religion/ belief guarantee in Indonesia; [2] encourage the State to ensure full freedom of religion/ belief including to revise various products of legislations that restrict freedom of religion/ belief and to restore the rights of victims; [3] provide baseline data on freedom of religion/ belief; and [4] strengthen the civil society and public network in general to expand the constituency in order to participate and promote the freedom of religion/ belief

B. Methodology

Within the framework of monitoring of freedom of religion/ belief in 2016, SETARA Institute conducts its research with mixed methods of qualitative and quantitative combined with investigative observations. Through the mixed methods, the report includes areas in Indonesia and describes the common symptoms of conditions of freedom/ belief in Indonesia.

The data were collected by: [1] having researchers' focus group discussions; [2] collecting data from religious and government institutions; [3] having in-depth interviews with various state authorities, leaders, and citizens in 10 relevant provinces; and [4] analyzing documents and media reportings.

The data collection and analysis of this monitoring adopt some parameters, which theoretically are used in the discipline of human rights and practically guided by civilized nations. Such parameters were the International Covenant on Civil and Political Rights (ICCPR), which has been ratified by the Indonesian government with Law No. 12/2005, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief as pronounced in the

United Nations General Assembly resolution No. 36/55 on November 25, 1981.

The data validity testing used in this monitoring research is the triangulation technique.¹¹ The triangulation technique used is the sources triangulation, by comparing and checking the information validity at different time and through different tools also by comparing the data obtained from in-depth interviews and documentations (*person and paper*), from various documentations (*paper and paper* -including the validity testing through comparing and tracking online sources) or from various individuals (*person and person*).

C. Theoretic and Conceptual Frameworks

1. Human Rights as the freedom of religion/ belief guarantee

The monitoring and writing of report of freedom of religion/ belief in Indonesia are based on human rights perspective, which puts freedom of religion/belief as an individual right whose fulfillment cannot be delayed (non-derogable rights). Therefore, the definitions used in the monitoring and writing of this report refer to definitions in the discipline of human rights law. Freedom of religion/ belief is a guarantee provided by the State as the freedom of religion/ belief for an individual and as the freedom to practice religions/ beliefs for individuals and communities. Freedom of religion is a fundamental human right.¹²

The terminology of 'Religion' or 'Belief' in human rights perspective should not be narrowly and limitedly interpreted, but it should be widely constructed. A common misconception that occurs is that theism (the belief in the existence of God) is a religion. On the other hand, Buddhism (non-theism), and Hinduism (polytheism), are also called religions. The definition of religion or belief is not merely only limited to traditional religions or institutions which have the characteristics or analogous practices

¹¹ Triangulation is a technique that facilitates validation of data through cross verification from two or more sources. See also Lexy J Moleong, *Metodologi Penelitian Kualitatif* (PT Remaja Rosda Karya, Bandung, 2002), page 178.

¹² Davis, Derek H., *op.cit.*

similar to the traditional religions. A newly formed religion/ belief and a minority religion are entitled to the protection provided by the dominant and ruling religious community.¹³ The perspective of human rights also underlines that the followers of both theistic and non-theistic beliefs and those who do not believe in any religions or beliefs deserve equal rights and protections.¹⁴

A primary instrument of human rights which regulates the guarantee freedom of religion/ belief is the International Covenant on Civil and Political Rights (1966) particularly article 18, which includes: (1) freedom to adopt a religion or belief of his/her choice, and freedom, either individually or in community with others and in public or private, to manifest his religion/ belief in worship, observance, practice and teaching; (2) no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice; (3) freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others; (4) the States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

In 2005, Indonesia has ratified the international covenant through Law No. 12/2005 on the Ratification of the International Covenant on Civil and Political Rights. This Covenant is legally binding and as the State that has ratified it, Indonesia has the obligation to integrate it in the national legislations and to provide periodic reports to the United Nations Human Rights Commission.

Another Human Rights instrument regulating the freedom of religion/belief is the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, as initiated in the United Nations General Assembly resolution No. 36/55 on November 25, 1981. The declaration

13 Paragraph 2, General Comment of United Nation of Human Rights Committee No. 22 on Article 18, 1993.

14 *Ibid.*

regulates the guarantee of freedom of religion/belief further than the International Covenant on Civil and Political Rights; nevertheless, as it is merely a declaration, it is non-binding to State party. Although it is not legally binding, the declaration reflects the wide consensus of the international community. In that regards, it has the moral power in the practices of international relations in general. As a member of the United Nations, Indonesia should not disregard the declaration in fulfilling its obligation to fulfill the human rights of its citizens.

Article 6 of Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief:

In accordance with article I of the present Declaration, and subject to the provisions of article 1, paragraph 3, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

- 1) *To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;*
- 2) *To establish and maintain appropriate charitable or humanitarian institutions;*
- 3) *To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;*
- 4) *To write, issue and disseminate relevant publications in these areas;*
- 5) *To teach a religion or belief in places suitable for these purposes;*
- 6) *To solicit and receive voluntary financial and other contributions from individuals and institutions;*
- 7) *To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;*
- 8) *To observe days of rest and to celebrate holidays and*

ceremonies in accordance with the precepts of one's religion or belief;

- 9) *To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.*

The 1945 Constitution of the Republic of Indonesia, has also affirmed the freedom of religion/ belief in Article 28E, as the following:

- (1) *Every person is free to worship and to practice the religion of his choice, to choose education and schooling, his occupation, his nationality, his residency in the territory of the country that he shall be able to leave and to which he shall have the right to return.*
- (2) *Every person has the right to be free in his convictions, to assert his thoughts and tenets, in accordance with his with his conscience.*

Based on above two instruments of human rights as well as the Constitution of the Republic of Indonesia, it can be summarized that the operational definition of freedom of religion/belief includes the freedom to adopt a religion or beliefs of his/her choice, either individually or in community with others, and in public or private to manifest his religion/ belief in worship, observance, practice and teaching, including the freedom to change his religion/ belief as well as the freedom not to adopt a religion/ belief.¹⁵ While Article 28E asserts that freedom of religion/ belief is a constitutional right of every citizen.

Human rights law is an international civil law which puts the State as the State Parties; it means that the State is the subject of law that is obliged to obey the human rights law. As the subject of law, therefore, every human rights violation always puts the State

15 Article 18 of Universal Declaration of Human Rights (1948); "Everyone has the right to freedom of thought, conscience and religion; this includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

as the perpetrator. Violations of human rights law occur when the State does not comply with the norms that bind it, as stated in international covenants and conventions, in which the State has vowed to comply through the process of ratification.

The emphasize on human rights epistemology as described earlier has clarified the difference between the human rights law and the international criminal law, which puts an individual as the subject of law. As a civil law, the sanctions recognized in human rights law are international sanctions, obligation to reform policies, and fines in the forms of compensation, restitution and rehabilitation for victims whose rights have been violated. Meanwhile, in international criminal law (Rome Statute), apart from an individual being the subject of law, a sanction given to the perpetrator is also in form of criminal sanction of imprisonment.

As a State Party in the international human rights law, Indonesia has the obligation to respect and to protect the freedom of religion or belief of every individual.¹⁶ The basic principle of the State obligation to respect human rights is that the State will not do anything that violate the integrity of an individual or groups or neglect their freedom. Meanwhile, the obligation to protect is to take actions needed to protect the rights of an individual / a group of people from crimes/ violations of law/ violence committed by other individual or groups, this includes taking preventive actions against abandonments that hinder the enjoyment of their freedom.

Although the basic character of human rights is non-derogable and is fundamental for every human being, according to Syracuse principle that has been agreed upon, there are two treatments towards the implementation of human rights, namely non-derogable rights (rights of which the fulfillment cannot be delayed or postponed) and derogable rights (rights of which the fulfillment can be delayed or postponed). The Syracuse principle underlines that the rights which can be delayed or postponed (derogable rights) can only be delayed or postponed in a specific situation or condition that is considered dangerous to the public interests.

¹⁶ See article 18 of DUHAM, article 18 of ICCPR, Article 28I, Article 28E, Article 29 of the 1945 Constitution of the Republic of Indonesia.

Meanwhile, the principle of non-derogable rights affirms absolute rights and therefore, they cannot be postponed or delayed in any situations or conditions. The rights included in the principle are: the right to life (to not be killed), the right of self intact (to not be tortured, kidnapped, ill-treated, raped), the right to be free from slavery, the right of freedom of religion, thought and belief, the right to be treated equally before the law, the right to not be imprisoned on the ground of his/her failure to fulfill a contractual obligation, and the right to not be criminalized due to the retroactive law. In that sense, all types of acts which may cause the loss of an individual's or a group of people's rights of freedom of religion – as elements of non-derogable rights – can be categorized as human rights violations.

Although the human rights discourses acknowledge the limitations in exercising the freedom of human rights, this monitoring report still includes several violations, both violations of the rights included in the category of *forum internum* and freedom included in the category of *externum forum*. The absolute individual freedom, namely the *forum internum* (internal freedom) is the freedom in which no party is allowed to intervene in its realization and the enjoyment of the rights and freedom. Included in the internal freedom are (1) the right to profess and convert to a religion freely; and (2) the right not to be forced to adopt or not to adopt a religion.¹⁷

While in a particular situation, State is allowed to limit or curb the social freedom or *forum externum* (external freedom) but by a margin of discretion or strict and legitimate prerequisites based on the Syracuse principles.¹⁸ Included in the external freedom are: (1) freedom to adopt a religion or belief, either individually or in community with others and in public or private; (2) freedom to

17 See article 18 of DUHAM, article 18 of ICCPR, Universal Declaration of Human Rights (1981) on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and General Comment of Human Rights Committee No. 22.

18 Syracuse principles are principles on limitation and derogation provisions in the ICCPR. Initiated in the colloquium of 31 experts of human rights and international laws from various countries in Sicily, Italy in 1984. The colloquium resulted in a set of standard interpretations on clauses of rights restrictions in the ICCPR.

build a place of worship; (3) freedom to use religious symbols; (4) freedom to celebrate religious holidays; (5) freedom to appoint a religious leader; (6) freedom to teach a religion or belief; (7) freedom for parents to provide religious education to their children; (8) freedom to establish religious institutions or communities; (9) freedom to deliver religious materials to an individual or groups.¹⁹

Violation of the right to freedom of religion or belief is a form of the State's failure or negligence in implementing it, such as interfering with an individual's freedom or not protecting an individual or a community who becomes the target of intolerance or criminal acts based on religion or belief. Thus, freedom of religion or belief violations are acts of omission, revocation, limitation or reduction of an individual's fundamental rights to freedom of religion or belief undertaken by the State institutions, in form of both active acts (by commission) and omission acts (by omission).

The terminologies of human rights related to freedom of religion and belief are intolerance and discrimination. Intolerance derives from the belief that one's own group, belief system or way of life is superior to those of others. It can produce a range of consequences from simple lack of civility or ignoring others, through elaborate social systems such as Apartheid, or the intentional destruction of people in the perpetration of genocide.²⁰

While discrimination means "all limitations, affronts or ostracism, both direct and indirect, on grounds of differences in religion, ethnicity, race, group, faction, social status, economic status, sex, language, or political belief, that results in the degradation, aberration, or eradication of recognition, execution, or application of human rights and basic freedoms in political,

19 All of the rights guarantees are stated in the ICCPR, article 18, General Comment of Human Rights Committee No. 22, and Universal Declaration of Human Rights (1981) on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

20 UNESCO, *Tolerance: The Threshold of Peace. A teaching/ Learning Guide for Education for Peace, Human Rights and Democracy* (Preliminary version). Paris: UNESCO, 1994, page 16.

economic, legal, social, cultural, or any other aspects of life.”²¹

Discrimination and intolerance based on religion²² is a violation of freedom of religion as stated in Article 2 Paragraph 2 of Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief as follows: “For the purposes of the present Declaration, the expression “intolerance and discrimination based on religion or belief” means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis,” such as not accepting a community or expressing and exposing hate to other community based on differences in religion or belief.

Intolerant and hate crimes are acts motivated by hatred or bias against someone or a group of people based on gender, race, skin color, religion, country of origin, and/or sexual orientation. An act of intolerance can be in a form of a serious crime, such as an attack or a fight. It can also be in a form of a minor act, such as mockery on someone’s race/ religion. Written communication, including graffiti which shows prejudice or intolerance against someone or a group of people can also be categorized as a hate crime. It also includes vandalism and conversations based on intolerance as well as those regarded by some people as jokes.

Hate crime is violence of intolerance and prejudice, intended to hurt and intimidate someone because of his/ her race, ethnicity, country of origin, religion, sexual orientation, and different ability. Spreading of hatred can occur with the use or in the form of

21 Law No. 39, 1999 on Human Rights, Article 1.

22 Article 1 of Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981): “[1] Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching; [2] No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice; [3] Freedom to manifest one’s religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

explosives, arsons, weapons, vandalisms, physical violence, and verbal threats of violence to instill fear to the victims, causing them to be vulnerable to further attacks and to feel alienated, helpless, suspicious and frightened. Others may become frustrated and agitated once they believe the government and other groups in the community will not protect them. When perpetrators of hate are not prosecuted as criminals and their acts are not publicly condemned, their crimes can weaken the communities even those with the most powerful and healthiest race relations.²³

UNESCO documented some symptoms of intolerance and their behavior indicators:²⁴

Language: Denigrations and pejorative or exclusive language that devalues, demeans and dehumanises cultural, racial, national or sexual groups. Denial of language rights.

Stereotyping: Describing all members of a group as characterized by the same attributes - usually negative.

Teasing: Calling attention to particular human behaviors, attributes and characteristics so as to ridicule or insult.

Prejudice: Judgement on the basis of negative generalisations and stereotypes rather than on the actual facts of a case or specific behaviors of an individual or group.

Scapegoating: Blaming traumatic events or social problems on a particular group.

Discrimination: Exclusion from social benefits and

23 U.S. Department of Justice, Hate Crime: The Violence of Intolerance <http://www.usdoj.gov/crs/pubs/htecrm.htm>, accessed on December 1, 2008.

24 UNESCO. *Tolerance: the threshold of peace. A teaching/learning guide for education for peace, human rights and democracy (Preliminary version)*. (Paris: UNESCO. 1994), page 16.

activities on primarily prejudicial grounds.

Ostracism: Behaving as if the other were not present or did not exist. Refusal to speak to or acknowledge the other, or their culture (includes ethnocide).

Harassment: Deliberate behaviors to intimidate and degrade others, often intended as a means of forcing them out of the community, organization or group.

Desecration and effacement: Forms of defacement of religious or cultural symbols or structures intended to devalue and ridicule the beliefs and identities of those to whom these structures and symbols are meaningful.

Bullying: Use of superior physical capacity or greater numbers to humiliate others or deprive them of property or status.

Expulsion: Officially or forcefully expelling or denying right of entrance or presence in a place, social group, profession or any place where group activity occurs, including those upon which survival depends, such as places of employment or shelter, etc.

Exclusion: Denying possibilities to meet fundamental needs and/or participate fully in the society, as in particular communal activities.

Segregation: Enforced separation of people of different races, religions or genders, usually to the disadvantage of one group (includes Apartheid).

Repression: Forceful prevention of enjoyment of human rights.

Destruction: Confinement, physical abuse, removal from area of livelihood, armed attacks and killings (includes genocide).

Intolerant and hate crimes are acts of crime putting individuals as the objects which are related to freedom of religion/belief. For these type of crimes, the responsibility lies on individuals as subjects of criminal law. Meanwhile, the State responsibility is to protect everyone from the threat of intolerance and to legally process the crimes that have occurred.

In the context of Indonesian laws, these types of crimes are actually accommodated by the Penal Code (KUHP), Article 156,²⁵ which states that:

The person who publicly gives expression to feelings of hostility, hatred or contempt against one or more groups of the population of Indonesia, shall be punished by a maximum imprisonment of four years or a maximum fine of four thousand five hundred Rupiahs.

By group in this and in the following article shall be understood each part of the population of Indonesia that distinguishes itself from one or more other parts of that population by race, country of origin, religion, origin, descent, nationality or constitutional condition.

However, in the practice of the Indonesian law, along with Article 156a, this article is wrongly implemented, namely to charge people who are accused of worshipping heretical sects and defaming religions. Meanwhile this article is an instrument that should be used to criminalize the practice of intolerance. Similar issue occurred to Article 28 (2) of Law 11/2008 on Electronic Information and Transactions. This article should be used against people who spread hatred but instead it is more often used to restrict people from enjoying their freedom of religion/ belief.

In relation to religious intolerance, SETARA Institute distinguishes between the passive intolerance with the active intolerance. Passive intolerance is the residue of religious belief as a whole and the interpretation of a person's religious teachings which is believed

²⁵ The article is an area of contestation of the interpretations of "hate crimes". So far, the implementations of this article have been identical with Article 156a, the derivative of PNPS No. 1/1965, which is often used against those who are accused of adopting heretical sects.

to be the only truth for him/ her as an individual and social being. Cognitively, he/ she continues to believe in the teachings of his/ her religion but whether willingly or not, he/ she must accept and adapt the consequence of social relations with various parties with different backgrounds. Meanwhile, active intolerance does not only view religious teachings as the only truth, but also tend to see those who have different interpretations of the same religion as well as different religious teachings as false and heretical. The most obvious difference between those who have passive intolerance and active intolerance is their acts. Those who have active intolerance express their thoughts not only through statements but also through acts.

This report of Freedom of Religion/ Belief in Indonesia is within the monitoring framework based on human rights, particularly in the International Covenant on Civil and Political Rights. Therefore, the report's preparation methods are based on the approach of 'violations'. Through such approach, this report can be comprehended as an attempt to examine the extent to which the State implements its generic obligations to respect and protect the freedom of religion/ belief. The framework of this report also refers to the framework for communications developed by the Special Rapporteur of United Nation for Freedom of Religion/ Belief.

Based on the definitions above, there are three forms of violations of freedom of religion/ belief committed by State actors, namely; [a] committing active acts that allow restrictions, discrimination, interference, or obstruction of a person's enjoyment of freedom of religion/ belief (by commission); [b] allowing a person's rights be violated (by omission), including allowing every criminal act committed by a person to be unprosecuted, and (c) forming regulations that would allow the occurrence of human rights violations (by rule/ judiciary).

In addition to documenting violations of freedom of religion/ belief perpetrated by the State, this monitoring also documents violations committed by groups of citizens as non-state actors. Violations by groups of citizens are generally classified into three major classifications: [a] arson of places of worship, intimidation, physical violence, and others; [b] acts of intolerance, and [c] acts of condoning

by community leaders.²⁶

Through such framework, the monitoring report divides the six (6) categories of violations based on the legal subjects and accountability:

- [1] State active acts (by commission),
- [2] state acts of omission (by omission),
- [3] establishment of regulations that violate/ provoke violations (by rule/ judiciary)
- [4] citizens' criminal acts
- [5] society's intolerance acts, and
- [6] community's condoning acts.

Regarding the violations committed by the State, the legal framework used to address them is the law of human rights which are stated in the covenant of civil and political rights as well as in several human rights conventions that have been ratified in the State constitution and in positive laws at the domestic level governing the obligations of the State. As for the violations and acts of intolerance, particularly criminal acts/ crimes committed by citizens, a legal framework that can be implemented is the Penal Code.

2. Epistemology and Religious Minority Rights

Literally, the term of minority is constructed academically and historically²⁷, therefore, its dimensions are very complex. Nevertheless,

²⁶ It should be emphasized that in perspective of SETARA Institute, acts of condoning (in other terms can be classified as hate speech) are categorized as violations of freedom of religion/ belief, and even considered as serious violations, for the following reasons. First, substantively, acts of condoning are acts of provoking violations that can be interpreted as the propositions and triggers of movements resulting in violations. Second, many acts of violation towards freedom of religion/ belief were in fact committed and initiated from propositions of public figures and government officials. Third, sociologically, in a feudal society with a strong tendency of patron-client relationship, public figures' speeches or patrons which can mobilize citizens' (clients') collective acts on wider scales.

²⁷ Preece, Jennifer Jackson. *"Understanding the Problem of Minorities"*, in

the conceptual clarity can be found through some perspectives, among others are the perspectives of Louis Wirth (1941), Marvin C Harris (1959), Francesco Capotorti (1991), and Jules Deschenes (2008). Wirth stated that the concept of minority was used to refer to those who received different treatments or were separated from a society, simply because they had physical, social, and cultural differences. Not only some of those groups had disadvantageous objective positions but they also tended to develop conceptions that they were inferior, alienated from their communities, and were persecuted groups, which eventually significantly impacted their roles in public and nation affairs.²⁸

Furthermore, Harris stated that a minority group was a sub-group of the larger community and members of the sub-group were the subjects of disabilities in various forms of prejudice, discrimination, segregation, or persecution committed by another sub-group who was usually called a majority.²⁹

According to Capotorti, a minority group is:

*... a group, numerically inferior to the rest of the population of a State, in a non-dominant position, whose members-being nationals of the State- possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.*³⁰

While Deschenes states that a minority group is:

... a group of citizens of a State, constituting a numerical minority and in a non-dominant position in that State,

Minority Rights (Cambridge: Polity Press, 2005), page 3.

28 Not only this situation shows that there are aspects within the minority that should be protected, but it also illustrates that factually, our society has yet fully integrated into a unified nation. See Louis Wirth, "Morale and Minority Groups", *American Journal of Sociology*, Vol. 47, No. 3 (November 1941), published by The University of Chicago Press, pages 415-433.

29 Harris, Marvin, "Race, Class, and Minority", *Social Forces*, Vol. 37, No. 3 (1959), published by Oxford University Press, pages 248-254.

30 "Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities." UN Document E/CN.4/Sub.2/384/Add.1-7 (1977). Accessed from http://www.minority-rights.org/docs/mn_defs.htm, on November 3, 2008.

endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law”.³¹

From these definitions, some notes can be proposed. First, the basis categorization of a minority group is numerical. Identification of a minority group based on numbers has its own bias. Approaching a minority group from numerical calculations is unlikely to summarize several facts of discrimination against it. One unique example was the case of South Africa. South Africa’s apartheid regime, before it was overthrown by Nelson Mandela, committed racial discriminations towards South African citizens which were numerically massive. Second, politically, a minority group has a distinctive status. Within the scope of a country, it occupies the non-dominant position. Third, a minority group has a distinctive character. It has the ethnical, religious, and linguistic characteristics which are different from the majority of the population in a country. Fourth, there is a high sense of solidarity among the members of the group to survive with their culture, tradition, religion, and language.

Jackson Preece, another thinker, viewed the issues of a minority group from the political perspective. According to her, issues of minorities were present in the attempt to distinguish those who had a particular political community and those who did not have a political community.³²

Preece, referring to the view of Hannah Arendt (1972), stated that political life left the assumption that we could create equality through arrangements as people could change and build a world together. Political orders are man-made. They are more as results of human actions rather than parts of physical and natural world. What was stated by Arendt was not much different from what was stated by

31 *Proposal Concerning a Definition of the Term ‘Minority’*. UN Document E/CN.4/Sub.2/1985/31 (1985). Accessed from http://www.minority-rights.org/docs/mn_defs.htm, on November 3, 2008.

32 Preece, Jennifer Jackson, “*Understanding the Problem of Minorities*”, in *Minority Rights*, (Cambridge: Polity Press, 2005), page 6.

Thomas Hobbes (1988). Without human being's political engineering, there are not any spaces for industries, arts, literacy, or societies. On the positive side, there are not any constant fears, risks of violent deaths, confinements, poverties, atrocities, and cruelties.

According to Preece, Minority is the identity which can be accurately interpreted by political constructions. The term minority refers to the politically excluded groups (political outsiders) from the dominant political order. The identity of minority has a long history of political background. Medieval Catholic labeled people who had beliefs that were not related to the Catholic Church as a minority group. In dynasty countries, the minority label was pinned to those who did not obey the religious ideology that was believed by sovereign princes. In the European empire, minorities are those who do did not have real characteristics of European civilization.

Identification of minority from the perspective of political domination has strong arguments bases with facts in real life. Although a numerical perspective sometimes becomes a minority's sub-character, the dominant distinctions lie on the political construction and categorization. Contemporary politics facts show that discrimination against those who are labeled as minorities are often committed by politically dominant groups who have the power to declare that apart from themselves are the weaker parties, which must either be sympathized or be concerned as groups capable of destroying political orders.

Thus, a minority referred in this research and monitoring report is not formed by a numerical perspective or at least from a major consideration. The minority discussed is based on the primary consideration that in certain situations and political circumstances minority serves as the object of alienation, discrimination, segregation, inferiority, and even persecution.

The next question would be, "What are their rights?" In the past, specific arrangements regarding minorities and circumstances allowing them to survive were described as "guarantees" not "rights".³³ They were evident from the treatments they received which occurred from the 17th century until the 19th century. At the time of the League of

³³ *Ibid*, page 13.

Nations, for example, there was an arrangement called the League of Nation Systems of Minority Guarantees which was adopted as an effort to maintain settlements in 1919 in Central and Eastern Europe.

This semantic difference clearly has a significant meaning and explains how the arrangements towards them are conducted. The word “guarantee” indicates that the arrangements are voluntarily obligations or favors granted by big countries to new or small countries.

After the human rights discourses post World War II, the protection of the minority’s existence was expressed in the form of rights and not guarantees. Differences between the two were not clearly defined in the contemporary understandings. As cited by Preece, Vincent (1986) explained that the word “rights” exhibited behaviors of a person which required him/her to act in certain ways, both legally and morally, entailed with normative circumstances attached to privilege, immunity or authority. Vincent further explained that rights were composed of five elements; the subject of rights, object of rights, implementation of rights, correlative stakeholders obligations, and justification of rights.

Minority rights are the complementary discourses within a large contemporary narrative of Human Rights (Hak Asasi Manusia/ HAM). Formally, New World communities gave affirmative emphasis on minority rights in the late 20th century through the adoption of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, by the United Nation General Assembly on December 18, 1992.

Academically, the rights of minorities have been long discussed, especially since they have been generally stated in Article 27 of the International Covenant on Civil and Political Rights (ICCPR): “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”

In the 1992 General Assembly Declaration, regulations regarding the existence and resilience of minorities are depicted in two aspects; the internal rights of minorities and external guarantees of the State. Minority rights are explicitly stated in Article 2 and Article 3. For instance, Article 2 paragraph 1 declares the right to enjoy their own

culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.

Protection guarantees as the State obligations are expressed in other Articles, among others are Article 1, Article 4, Article 5, Article 6 and Article 7. For example, Article 1 paragraph 1 declares that the State is obligated to protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and to encourage conditions for the promotion of that identity.

As a derivative of Article 27 of the ICCPR,³⁴ the 1992 Declaration on Minorities accommodates formulations of minority rights in detail,³⁵ namely:

- 1) State protection on the existence and the national or ethnic, cultural, religious and linguistic identity of minorities,³⁶
- 2) Right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public,³⁷
- 3) The right to participate effectively in cultural, religious, social, economic and public life,³⁸
- 4) The right to participate effectively in decisions on the national and regional levels,³⁹

³⁴ It is explicitly stated in the Preamble of the General Assembly Declaration on Minorities.

³⁵ On the opposite side, these rights are implicated on the liability and responsibility of the State. In the State framework, it is demanded to take positive measures in order to protect minorities, both in civil and political fields as required by ICCPR, and to culturally support and maintain the minority. See Steven Wheatly, *Democracy, Minorities and International Law* (Cambridge: Cambridge University Press, 2005), page 7.

³⁶ Article 1 of the United Nation Declaration on Minorities.

³⁷ Article 2, paragraph 1 of the United Nation Declaration on Minorities.

³⁸ Article 2, paragraph 2 of the United Nation Declaration on Minorities.

³⁹ Article 2, paragraph 3 of the United Nation Declaration on Minorities.

- 5) The right to establish and maintain their own associations,⁴⁰
- 6) the right to establish and maintain peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States,⁴¹
- 7) The freedom to exercise their rights, individually as well as in community with other members of their group, without any discrimination.⁴²

Within the framework of this research, religious minority is within such theoretical spectrum, both regarding the epistemology and the rights. In order to clarify the categorizations, SETARA Institute divides religious minorities into the following groups.

- 1) Religious minority mainstream. The pin point of the religious minority in this category is the relation of the religious majority apart from itself. For example, the relation of the Catholics included in this category to Muslims, who are numerically and politically a majority. Muslims in an area such as North Sulawesi are included in this category in relation to the majority of Christians.
- 2) Minority in a particular religion. For example, Shia Islam or Ahmadiyya Muslim community is a religious minority unlike Sunni Islam or *Ahlussunnah Wal Jama'ah* (Aswaja) in the body of Islam.
- 3) Indonesian traditional religions minority, a religious group of the local heritage who are usually attached to the existence of the indigenous people in Indonesia. Based on the information of the Directorate of Belief in God Almighty of Ministry of Education and Culture, there are 184 groups who are members of the organization which accommodates adherents of local religions and indigenous beliefs throughout Indonesia (Majelis Luhur Kepercayaan Indonesia/ MLKI). Meanwhile, there have not been any records on individuals.

40 Article 2, paragraph 4 of the United Nation Declaration on Minorities.

41 Article 2, paragraph 5 of the United Nation Declaration on Minorities.

42 Article 3 of the United Nation Declaration on Minorities.

In 2016, there were two local religious groups experiencing violations, namely Sapta Dharma and Budhi Luhur.

- 4) Local Islamic belief. Local Islamic belief is the belief that was formed from the process of syncretism between Islam and local customs. The adherents do not claim to be affiliated to Sunni or Shia Islam. However, similar to the belief of Abdul Rashid and many others, they have their own interpretations towards the teachings of Islam.
- 5) New Religious Movement. Essentially, this category refers to a religious belief or a new ethical, spiritual or philosophical movement and is not part of any mysticism beliefs or religious institutions. Included in this category are Lia Eden, Fajar Nusantara Movement (Gerakan Fajar Nusantara/ Gafatar), and so forth. []



CHAPTER II

Conditions of Freedom of Religion and Belief in Indonesia in 2016

A. Background

This chapter examines the quantitative data of freedom of religion/ belief in 2016. Although the data were specifically based on the findings in 2016, the approach used in this chapter is the comparative analysis of the findings from the previous years. This chapter is presented with a consistent display technique as used in the previous years. Therefore, both findings can be linearly compared. The comparisons are intended to record the dynamics of freedom of religion/ belief in Indonesia.

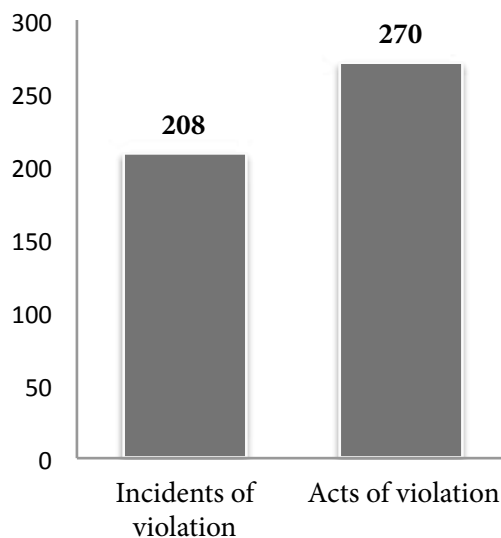
This chapter will give a comprehensive overview on the conditions of freedom of religion/ belief. Not only it is based on the quantitative data and the interpretations of some highlights, but it is also provided with some reflections made by SETARA Institute. It is to provide a general overview of the issue background and is expected to identify alternative solutions in order to develop more conducive and supportive policies and social practices towards the equality guarantee for every person to worship a religion/ belief freely.

B. Acts of Violation

Throughout 2016, SETARA Institute recorded 208 violations of

freedom of religion/ belief with 270 forms of acts⁴³ spread throughout Indonesia [See Graphic 1]. Compared to the data last year, this figure shows a significant increase of 12 incidents and 34 acts of violation. By 2015, the number of incidents had reached to 196 meanwhile the number of acts of violation had increased to 236.

Graphic 1.
Numbers of Incidents and Acts of Violation



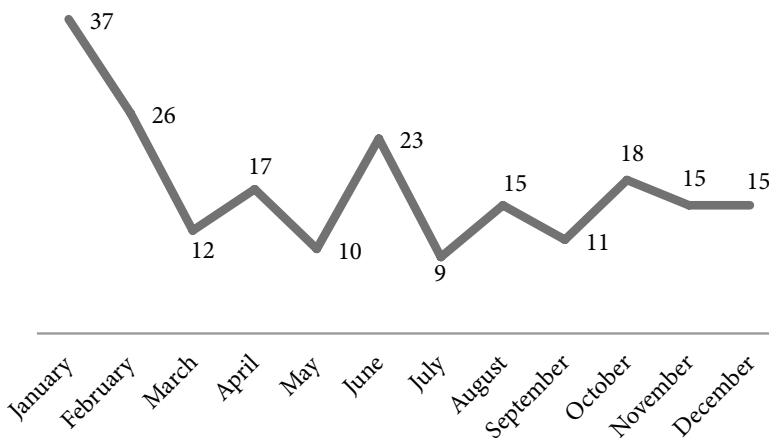
The increase number of incidents and acts of violation of freedom of religion/ belief must be seriously addressed by the stakeholders, particularly by the president and vice-president, Joko Widodo and Jusuf Kalla. In 2015, SETARA Institute reminded the government and all parties that the decrease in the number of incidents and acts of violation in 2014 were merely temporary symptoms associated with the administrations of the General Election and the Presidential Election, where the government mobilized all resources in the forms of

⁴³ The number of incidents is different from the number of acts as in a single incident there might be various acts. Human rights discipline distinguishes between those incidents and acts.

government apparatus and budget, in order to secure the 2014 General Election in particular, as the last election in the governance era of Susilo Bambang Yudhoyono. Each potential incident as well as social and security disruption, including religious dispute was suppressed in such way. Meanwhile, the increase number of incidents and violations of freedom of religion/ belief in 2015 indicated the return of minor trend of the conditions of freedom of religion/ belief due to the lack of conducive improvements of the politico legal policy as well as social and cultural basis on the development of freedom of religion/ belief.

From the time variable of the incidents, the highest number of violations occurred in January, as many as 37 incidents followed by 26 incidents in February, 18 incidents in October, 17 incidents in April, and both 15 incidents in November and in December [See Graphic 2]. The incidents distribution data indicated that averagely 17 incidents occurred in each month or an average of 1 point increase compared to the average of 16 incidents per month in the previous year.

Graphic 2.
Monthly Distribution of Incidents



Similar to the statistic research and monitoring data in previous years, the highest number of freedom religion/ belief violations occurred in the province of West Java. West Java became the number

one violator of freedom of religion/ belief with a number of 41 incidents, which were 10 points higher than the number of incidents occurred in Jakarta (31 incidents). At the third position, following West Java and Jakarta, was East Java with 22 incidents. Central Java was ranked fourth with 14 incidents and the fifth rank belonged to Bangka Belitung with 11 incidents. [See Table 1 and Graphic 3].

Table 1.
Distribution of Incidents in Provinces

Province	Amount
West Java	41
DKI Jakarta	31
East Java	22
Central Java	14
Bangka Belitung	11
South Sulawesi	10
Aceh	8
North Sumatera	8
West Sumatera	7
Jambi	7
DI Yogyakarta	7
West Kalimantan	7
Riau	5
West Nusa Tenggara	5
Banten	5
East Kalimantan	4
Riau Islands	3
North Maluku	3
Lampung	3
Central Kalimantan	2
Southeast Sulawesi	2
North Sulawesi	1
Papua	1
Central Sulawesi	1
Total	208

Factors that led to the increase of the actual numbers of violations of freedom of religion/ belief in West Java have not experienced changes, much less significant transformations. Some of the factors that lead to the high numbers of incidents of freedom of religion/ belief in the largest province in Indonesia from the demographic aspect, among others are: First, the discriminatory regulation factor. As frequently issued by civilians, Governor of West Java, Ahmad Heryawan, issued a Gubernatorial Regulation No. 12 of 2011 on the Prohibition of Ahmadiyya Activities.

Before the *regeling* was issued, discriminations and violations of the rights to freedom of religion against the Ahmadiyya community had already occurred. Post-publication of the Gubernatorial Regulation, the intensity of the persecutions of the Ahmadiyya Community in West Java was doubled. The regulation had systemically provoked the hostile and anti-Ahmadiyya intolerant groups to act more aggressively against the existence of the community. Sociologically, the Gubernatorial Regulation clearly became a justification tool for the intolerant groups towards their acts of violation and intolerance against the Ahmadiyya Community in West Java.

The second factor was the intolerant policy at the regency/ city level in West Java. Some regencies or cities in West Java often contributed to the escalations of intolerance, in form of a policy to prohibit the commemoration of Ashura to the Shia community which was issued by the Mayor of Bogor. In fact, in the indexing research conducted by SETARA Institute showed that the 10 cities with the highest intolerance levels were from West Java province. Seven of the top 10 cities were the city of Bogor, Bekasi, Depok, Bandung, Sukabumi, Banjar and Tasikmalaya.

The third factor was the growing number of the intolerance groups. In West Java, there were groups who often committed acts of violations and intolerance, especially in the regencies/ cities such as Bandung, Tasikmalaya, Cianjur, and many others.

The forth factor was the poor capacity of the government and social institutions in managing the society dynamics in a large scale and at a high complexity. As it is generally known, West Java is demographically the largest province in Indonesia. Thus, the diversity in West Java is more complex than other provinces in Indonesia. In fact, factors that

affect the high intolerance are not the large population and the high level of diversity, but the failure of the local government to manage such large population and high diversity in West Java.

The fifth factor was the low awareness of the religious diversity (plurality and multi-culturality) of the local Islamic Party politicians. The strong religious sentiment of the majority in West Java was intersected with a magnitude agenda of office-seeking politicians in Pasundan area. Therefore, they chose to submit to or at least chose not to capitalize with the will of the majority.

Religious issues were even used to collect votes of the majority in the general and regional elections. This in itself has the potential to further discredit the minority groups not only socially but ultimately politically as the implications of their promises to and at a certain level consensus with the majority of the Islamic community.

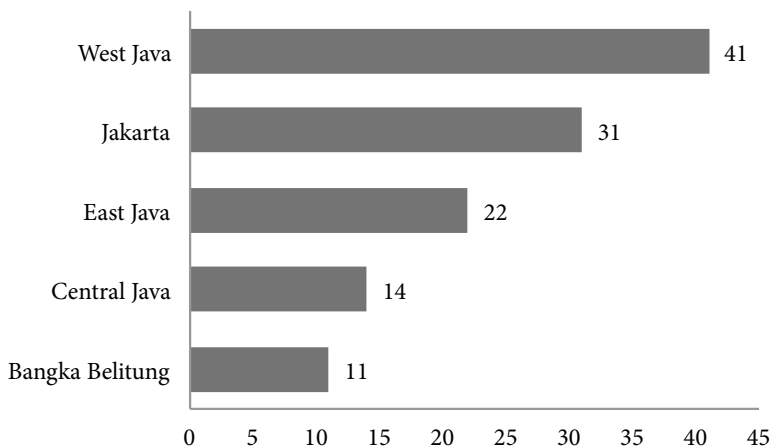
Thesis about the politicization of religion as one of the triggers of the high number of freedom of religion/ belief violations was also published in Jakarta which resulted in the Capital being the second region with the highest distribution of violations in Indonesia in 2016. The politicization of identity and religious issues prior to the Jakarta Gubernatorial Election in 2017 increased the tension of political and social conditions and led to various violations of freedom of religion/ belief.

According to the violations distribution of freedom of religion/ belief within the provinces in Indonesia in 2016, East Java also needs serious attention. Especially in regards to the management of the protracted issue of the Sampang Shia Islam refugees in Sidoarjo as well as the management of the recovery process of their civil, political, economic, social, and cultural rights which have not experienced any significant progress. Governor Soekarwo and Vice Governor Saifullah Yusuf, who not only have the political authority but also bear the socio-cultural religious authority, should take progressive breakthroughs to specifically restore all Shia Islam refugees' rights and to generally actualize the local policies and the conducive socio-cultural environment for the protection of freedom of religion/ belief as mandated by the constitution of the Republic of Indonesia.

In addition, the inclusion of Central Java as one of the five areas with the highest number of violations requires new attention. In the

report of Conditions of Freedom of Religion/ Belief in Indonesia in 2014, SETARA Institute highlighted the magnitude of the potential violations of freedom of religion/ belief in Central Java, which is now led by Ganjar Pranowo. Central Java is one of the Javanese cultural centers where feudalism is quite entrenched. Historically, religion and traditional culture were merged in the same social-political field.⁴⁴ Therefore, the proper governance in managing and maintaining harmony in the diversity of social religious identity is needed. The failure of politico-legal and social governance will easily lead to violations of freedom of religion/ belief in Central Java. The expulsion of the Sangga Buana mysticism believers from Penaruban Purbalingga village on March 22, 2016 by citizens, as it was believed to be heretical, was the evidence of the social governance failure. Another evidence of the social governance failure was the coercion of conviction case by the Principal of SMKN 7 Semarang and the Education Office of Semarang against Zulfa Nur Rahman, a student who was in fact a mysticism believer. They demanded her to convert to Islam if she wished to graduate to the 12th grade.

Graphic 3.
Top 5 Provinces with the Highest Numbers of Incidents.



⁴⁴ See also Halili dan Naipospos, *Dari Stagnasi Menjemput Harapan Baru; Kondisi Kebebasan Beragama/Berkeyakinan di Indonesia tahun 2014*, (SETARA Institute, Jakarta, 2015), Pages 133-141.

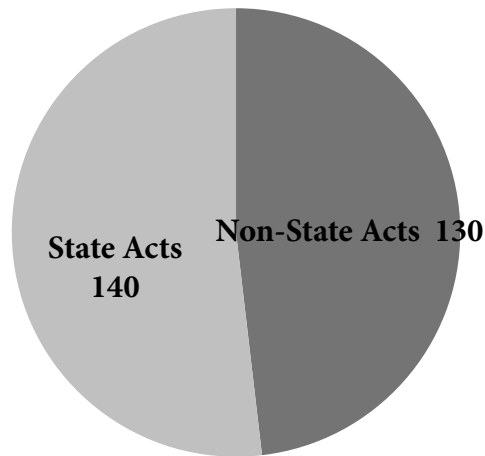
Reviewing the aspects of violations of freedom of religion/ belief perpetrators and using categories commonly used in the discipline of human rights, perpetrators can be grouped into; State actors and non-State actors. Of all the 270 acts of freedom of religion/ belief violation, 140 of which involved the State officials as the perpetrators ⁴⁵ [See Graphic 4]. This figure shows a significant jump from the number of violations by State actors in the previous year, which stood at a number of 96 acts. When further compared with the data of violations of the previous year (2014), where there were only 39 acts of violation, the number of acts of violation committed by State actors in 2016 increased three-fold greater. This phenomenon is a serious anomaly as the State is primarily the duty bearer of the human rights issue to which the responsibilities to guarantee, to protect, to fulfill, and to promote human rights are attached.

The acts of violation committed by the State, as known in the discipline of human rights, include direct/ active acts (by commission), acts of omission (by omission), and law composing (by rule/ judiciary) which potentially cause violations/ violence. Public officials' provocative statements which inflict violence are considered to be State's active acts.

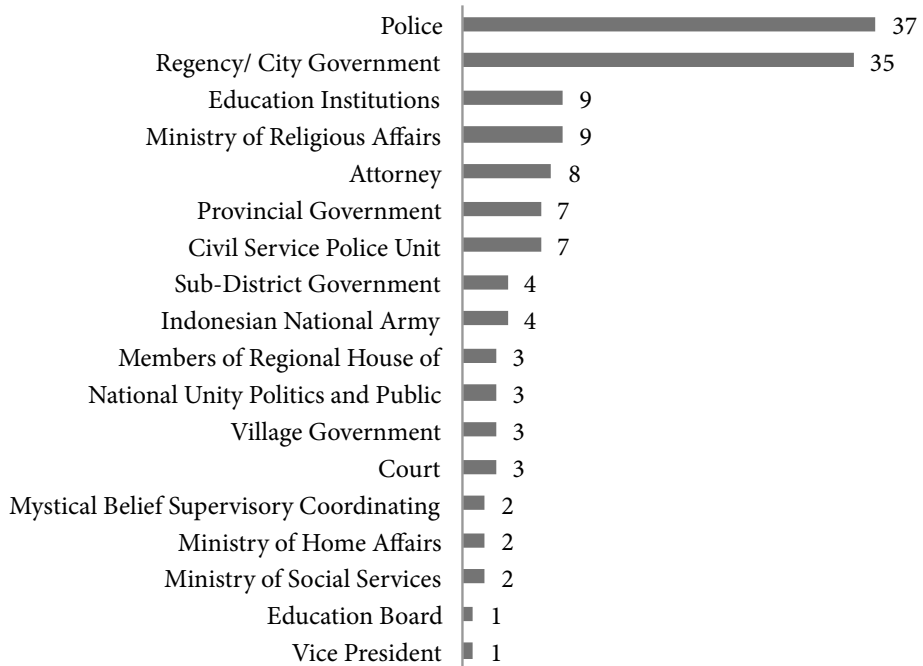
Compared to the previous year where there were 138 acts of violation, there were "only" 130 acts of violations committed by non-State actors in 2016⁴⁵ [see Graphic 4]. Meanwhile, the acts of violation committed by citizens included crimes, condoning acts by community leaders, and intolerance acts. Cumulatively, the classification percentage based on the perpetrators acts did not experience any changes throughout the years. Groups of citizens will always be at the highest rank of violations perpetrators against freedom of religion/ belief.

⁴⁵ SETARA Institute calculated the number of actors based on anyone who was involved in an incident. In one incident, various State institutions could join forces to commit certain acts. Similarly, State institutions could join forces with community groups to commit various acts in one incident.

Graphic 4.
The Comparison of the Perpetrators Acts



Graphic 5. State Actors



In terms of the State perpetrators/ actors of violations category in 2016, there were eighteen (18) State institutions who committed violations of freedom of religion/ belief [see Graphic 5]. Compared to the same data of the previous year, the number of State actors slightly increased. In 2015, there were 17 State institutions who committed acts of violations.

Similar to the previous year's data, the top two institutions in the 2016 statistics as the State institutions who committed high numbers of violation acts of freedom of religion/ belief were consistent. The only difference was that regency/ city government which had previously been at the top of the list switched its position with the police in 2016. The police were ranked first, while the regency/ city government were ranked second [see Graphic 5].

In 2016, the police were the top violators in the State actor category with a high number of acts, as many as 37 acts. While in the previous year, they committed 16 acts of violation. The acts undertaken by the Police were acts of omission. They committed 16 acts of omission in the incidents of violation of freedom of religion/ belief in Indonesia throughout 2016. Other prominent acts, but not significant in number were the criminalization of belief, misdirection, and coercion of conviction [see Table 2].

Meanwhile, the Regency/ City Government committed 35 acts in 2016, an increase by 4 numbers from the previous year with 31 acts [see Table 3]. There were three prominent violations with significant numbers committed by the Regency/ City Government. Most acts committed by the Regency/ City Government involved 9 acts of discriminatory policy, followed by 7 acts of discrimination, and 6 acts of religious practice coercion. In regards with discriminatory policies and discrimination, acts of violation committed by the Regency/ City Government were intersected with the acts committed by the intolerant groups, both in time and act substances. Thus, SETARA Institute indicated the submission of Regency/ City Government to the pressure of the intolerant groups.

Table 2.
Types of Acts of Violation Committed by the Police

No.	Police Acts of Violation	Amount
1.	Act of omission	16
2.	Criminalization of belief	4
3.	Misdirection	3
4.	Coercion of conviction	3
5.	Arbitrary arrest and detention	2
6.	Act of Condoning	2
7.	Forced eviction	1
8.	Discrimination	1
9.	Intolerance	1
10.	Allegation of religion defamation	1
11.	Discourse prohibition	1
12.	Restriction on freedom of expression	1
13.	Coercion of religious practice	1
	Total	37

Table 3.
Types of Acts of Violation Committed by the Regency/
City Government

No.	Regency/ City Government Acts of Violation	Amount
1.	Discriminatory policy	9
2.	Discrimination	7
3.	Coercion of religious practice	6
4.	Coercion of conviction	2
5.	Abandonment of citizens	2
6.	Uniformity	1
7.	Forced closure of public facilities	1
8.	Expulsion	1

No.	Regency/ City Government Acts of Violation	Amount
9.	Hate speech	1
10.	Sealing places of worship	1
11.	Prohibition of religious practice	1
12.	Abandonment of public services	1
13.	Act of Condoning	1
14.	Act of omission	1
	Total	35

5 other State institutions with the highest number of violation acts following the Regency/ City Government and the Police were the Education Institutions (9 acts of violation), Ministry of Religious Affairs (9 acts of violation), Attorney (8 acts of violation), Provincial Government and Civil Service Police Unit (7 acts of violation each) [See Graphic 5].

There are some important notes regarding the configuration of the top five State institutions who committed violations of freedom of religion/ belief. The first note is regarding the police. For the past few years, the police institutions have always been one of the top three State institution violators. Thus, it is assumed that the Police's promotion capacity in preventively and curatively responding to and dealing with issues of freedom of religion/ belief has not experienced any significant progress.

Therefore, SETARA Institute has always encouraged the police to have a better institutional mechanism to cope with and address issues of freedom of religion/ belief. As the law enforcement officers and civilian security forces, police should be the State institution capable of executing their formal mandate as the protector of all citizens, especially the minorities.

The second note is regarding the Regency/ City Government. The local governments' (Regency/ City as well as Provincial governments) partialities against the groups who are vulnerable towards the issue of freedom of religion/ belief are worsened. They can be seen from the fact that the Regency/ City Government actively commit acts of violation. Most regencies/ cities do not have good human rights perspectives. Nevertheless, the report still has to give appreciation to some Regents/

Mayors who have very high partialities in providing protection and guarantees fulfillments towards the freedom of religion/ belief as a constitutional right of all citizens within the jurisdiction of their leaderships.

One of the regents who has a clear support towards the fulfillment of the rights of all citizens to freely adopt their religions/ beliefs is the Purwakarta Regent, Dedi Mulyadi. In general, he has built a culture of inclusive leadership in Purwakarta that impacts the maintenance of the diversity atmosphere, including in the matter of religion/ belief at the local level, which allows every religious believer to peacefully co-exist. More specifically, he has provided an example of an inclusive and tolerant policy at the educational operational level in the regency by demanding all schools to provide religious education and worship facilities for all students in accordance with their respective religions. Such conducive situation occurs in one of the regencies in West Java province, which is known as the province with the high level of intolerance and violations of freedom of religion/ belief.

Shifting to East Java, one regent who also deserves appreciation is the Regent of Bojonegoro, Suyoto. The regent, also known as Kang Yoto, initiated a local regulation regarding human rights. Bojonegoro regency is the first Regency/ City Government in Indonesia to formally issue a local regulation that comprehensively adopts the values and standards of human rights in the form of a Regent Regulation, No. 7 of 2015 on the Regency of Human Rights Friendly which was ratified in March 2015.

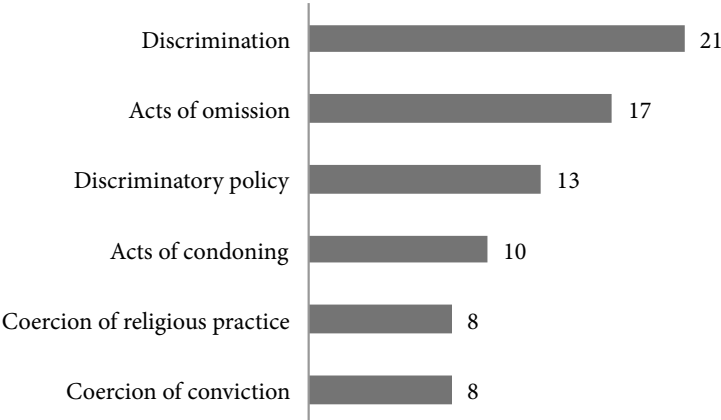
The third note is regarding the educational institution. The high number of violations by educational institutions organized by the State and the Ministry of Religion is a serious setback that must be immediately addressed. Educational institution is one of the authoritative agents who promotes diversity as the State philosophical motto and implements human rights and tolerance education in order to guarantee the basic rights of every person to worship according to his/ her respective religion or belief as well as to create a peaceful atmosphere in the pluralistic religious life. However, the fact that education institution is one of the actors of acts of violation indicates a malfunction within.

The fourth note is regarding the Ministry of Religion. An alerting

malfunction also occurs in regards to the high numbers of violations committed by the Ministry of Religion. The Ministry of Religion should be the institution that indiscriminately serves and protects all religions and beliefs in Indonesia. The Ministry of Religion should be the *avant garde* to the promotion and protection of religious rights of all citizens.

In a human rights perspective, according to the terms of Hannah Arendt, the high numbers of violations committed by State actors show the banality of crimes. Ideo-normatively, State officials are the human rights stakeholders. Within that framework, the entire politico-juridical actions taken by the State should be supportive and contributive to the protection of the constitutional rights of all citizens. However, it is not the case. SETARA Institute’s research and monitoring data show that the State often did not present itself as the protector in any potential acts of violation on the rights of every citizen to worship according to his/ her respective religion and belief. In many cases, the State committed three acts of violations at once; direct acts, acts of omission, and law composing. The State often victimized the victims of violations of freedom of religion/ belief. Acts of violation committed by State authorities did not provide justice for victims of violations of freedom of religion/ belief in various incidents of intolerance, discrimination, and violence on behalf of religions conducted by intolerant groups. Instead, the State burdened the victims with other violations.

Graphic 6.
Top Five Acts of Violation Committed by State Actors



There were 32 forms of acts within the 140 acts committed by State actors. Various types of violations committed by State actors were ranging from discrimination to abandonment of public services. The data over the years, including the 2016 data, showed that the State repeatedly committed acts of violations which privately violated citizens' rights of religion/ belief in the *forum internum*, such as misdirection as well as coercion of belief and worship/ teaching of a particular religion.

From the acts of violation category, most acts committed by State actors were in the form of direct acts (by commission), while the rest were acts of omission (by omission) and violations of the rules (by rule/ judiciary). Such direct acts indicated the poor capacity of the State to apply the values, principles, instruments and protocols of human rights, particularly on the issue of religion/ belief, which were ethically and legally outlined as well as globally and positively adopted in the national regulations.

To respond to such situations, there is no other option for the government other than to develop and implement guidelines, mechanisms and fixed procedures for the State officials in responding to and dealing with religious/ belief issues. The high number of violations of freedom of religion/ belief committed by State actors is certainly not caused by one single factor, but it is by the *resultante* of various factors which are complexly interrelated. Violations in several forms of direct acts are caused by a combination of several factors, such as State officials' lack of knowledge and perspectives, their low competence in the issues of human rights, and the lack of formal mechanisms and procedures to guide their actions.

In addition to the above State actors, violations of freedom of religion/ belief were also committed by non-State actors. In 2016, numerous non-State actors were involved in 130 acts of violation. There were 19 non-State actors who committed various violations of freedom of religion/ belief throughout 2016. From the aspect of the forms, violations of freedom of religion/ belief committed by non-State actors involved 19 forms of acts with an accumulative total of 130 acts as previously described. The number of violations by citizens can be grouped into three categories of acts, namely crime, intolerance, and acts of condoning committed by public figures [See Table 4].

Table 4.
Non State Actors

No.	Non State Actors	Amount
1.	Group of Citizens	42
2.	Alliance of Islamic Organizations	30
3.	Indonesian Ulema Council (Majelis Ulama Indonesia/ MUI)	17
4.	Islamic Defenders Front (Front Pembela Islam/ FPI)	16
5.	Companies	4
6.	Suspected terrorists	3
7.	Islamic Jihad Front (Front Jihad Islam/ FJI)	3
8.	Individuals	3
9.	Nahdlatul Ulama (NU)	2
10.	Defenders of Ahlus Sunnah (Pembela Ahlus Sunnah/ PAS)	2
11.	Political Parties	1
12.	Islamic Reform Movement (Gerakan Reformasi Islam/ Garis)	1
13.	Islamic Community Forum (Forum Umat Islam/ FUI)	1
14.	Private Schools	1
15.	Religious Leaders/Public Figures	1
16.	Ukhuwwat Muslims Forum (Forum Ukhuwah Umat Islam/ FUUI)	1
17.	Ansharusy Syari'ah	1
18.	Surakarta Muslims Paramilitary Group (Laskar Umat Islam Solo/ LUIS)	1
	Total	130

The mapping of such non-State actors shows that the mechanisms to address the acts of the violation are indeed easy. It all depends on whether or not the State officials are willing to cope with those violations. Most violations committed by non-State actors can be categorized into crimes; therefore, criminal law procedural mechanisms can be used to

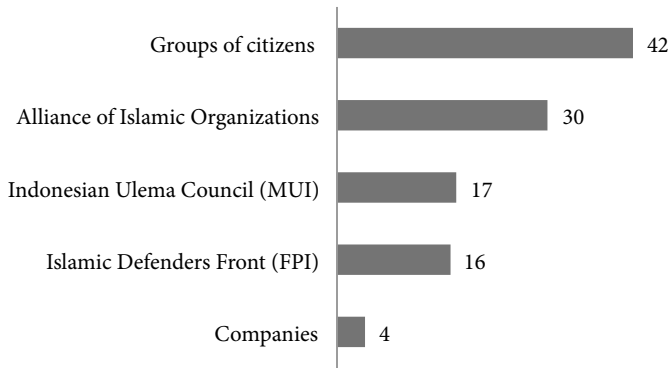
hold the perpetrators accountable, to uphold justice and to recover the rights of the victims. Unfortunately, in reality, acts of omission or even criminalization towards the victims of violations of freedom of religion/ belief often occur.

According to the monitoring results in the previous years, perpetrators of violations of freedom of religion/ belief in the non-State actor category were always dominated by groups of citizens. Actors of violations of freedom of religion/ belief data in 2016 confirmed the trend of groups of citizens as non-State actors with the highest level of involvements. It shows that the education for diversity and tolerance has not been successfully implemented.

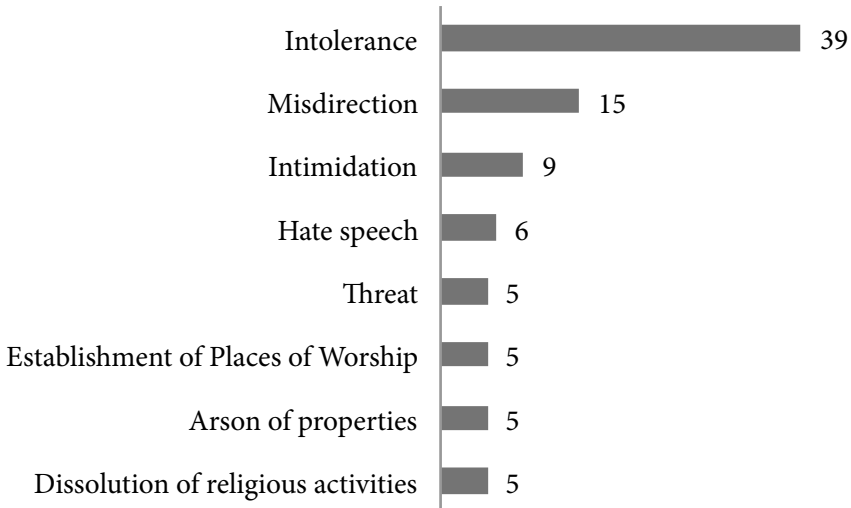
The complexity behind the high number of violations committed by groups of citizens eventually shows that the horizontal energy of religious/ belief conflict is latent within the society. Worse yet, in the situations of lack of diversity and tolerance education, combined with feudal and clientelistic culture, citizens are not entirely the independent actors. They tend to be the dependent variables towards the external independent variables, such as the religious and political elites, interests of these elites, and so forth.

Accordingly, it is relevant to look for non-State actors other than the groups of citizens. Data in 2016 showed that the Alliance of Islamic Organizations, Indonesian Ulema Council (Majelis ulama Indonesia/ MUI) and Islamic Defenders Front (Front Pembela Islam/ FPI) were ranked in order as second, third, and fourth in the top five non-State actors [see Graphic 7]. The forms of violations committed by the three non-State violators tend to be determinant and influential or at least spread to the public in a wider scale. Alliance of Islamic Organizations, MUI and FPI often committed acts of misdirection through both hate speeches and religious preaches as well as acts of condoning that became the catalysts of violations committed by other non-State actors. Furthermore, they had the tendency to use religious dogmas to provoke the occurrence of violations of freedom of religion/ belief. In fact, MUI had the religious authority which was legitimized by problematic legislations to issue fatwa (edicts) of misdirection and prohibition that could provoke further violations by intolerant groups of citizens.

Graphic 7.
Top Five Non-State Actors



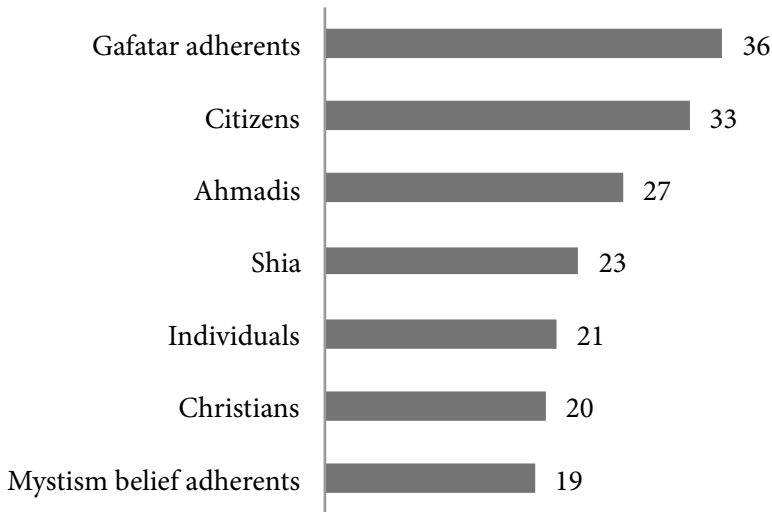
Graphic 8.
Top Eight Acts of Violations by Non-State Actors



From the aspects of the actors' forms of acts, there are 34 forms of violation acts committed by non-State actors with an accumulative total of 130 acts (table 4). Intolerance was a form of violation act which was most often committed by non-State actors, as many as 39 times.

Other forms of acts following the intolerance⁴⁶ were misdirection (15 acts), intimidation (9 acts), hate speech (6 acts), as well as threats, establishment of places of worship prohibition, arson of property, and dissolution of religious activities (5 acts each) [Graphic 8].

Graphic 9.
Top Seven Groups of Violations Victims



From the perspective of the victims, violations of freedom of religion/ belief in 2016 were committed to 16 groups of victims. They became the objects of 208 incidents of violation [see Graphic 9]. In 2016, Fajar Nusantara Movement (Gerakan Fajar Nusantara/ Gafatar) was the largest group who became the victims of violation. Violations toward the Gafatar group were massively committed and many of their rights were violated.

Besides Gafatar adherents, five other victims of violations of freedom of religion/ belief were Ahmadis, groups of citizens, Christians,

⁴⁶ Analysis and reflections on the high intolerance by non-State actors and the relationships among intolerance trigger variables will be reviewed later at the end of this chapter.

mysticism belief adherents, and Shia. Four out of five victims have always experienced violations during the research and monitoring of violations of freedom of religion/ belief in Indonesia for the last 10 years. The only difference was the various intensities of the acts of violation they suffered from.

In 2016, Ahmadis suffered 27 incidents of violation of rights. Following the Ahmadis, groups of citizens were the victims of 33 incidents of violations of rights. Christians became the objects of rights violations in 17 incidents. While Shia Islam 23 incidents, and mysticism belief were victimized in 19 incidents [see Graphic 9].

In addition, in regards to the situation in which the targets of violations in this context were religious groups, one of the biggest targets of the violation acts was against their places of worship. Therefore, SETARA Institute also recorded disruptions to the places of worship along with the documentation of incidents and acts of violations of freedom of religion/ belief.

In 2016, the biggest disruption to places of worship afflicted mosques in 7 incidents. Moreover, churches became the objects of disruptions in 6 incidents. Meanwhile, monasteries and mysticism belief places of worship both experienced disruptions in 1 incident.

Table 5.
Places of Worship Experiencing Disruptions
from 2007 to 2016

Places of Worship	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	
Mysticism belief places of worship	2	0	3	2	2	4	4	3	2	1	23
Churches	7	7	13	35	32	22	34	13	17	6	186
Pagodas	0	0	0	0	0	3	0	0	0	0	3
Mosques	4	22	7	16	20	9	24	8	11	7	128
Synagogues	0	0	1	0	0	0	0	0	0	0	1
Hindu temples	0	1	0	0	0	1	1	2	0	0	5
Monasteries	0	1	3	3	2	3	2	0	0	1	15
	13	31	27	56	56	42	65	26	30	15	361

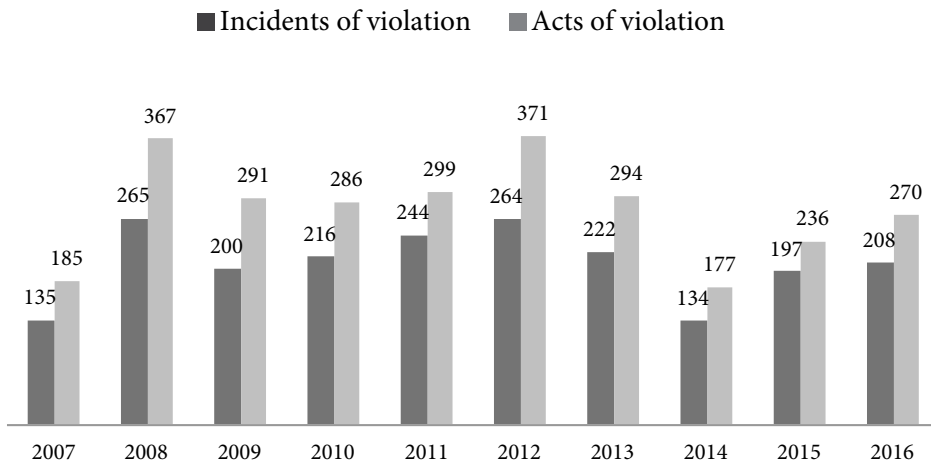
Cumulatively within 10 years, SETARA Institute has recorded 361 disruptions to places of worship with varying degrees of destructions from arson, vandalism, establishment failures due to licensing, and many others. From the seven (7) types of disruptions to places of worship, there were 186 disruptions to churches, 128 disruptions to mosques, 23 disruptions to mysticism belief places of worship, 15 disruptions to monasteries, 5 disruptions to Hindu temples, 3 disruptions to pagodas and 1 disruption to a synagogue [see Table 5].

Thus, places of worship of all religious followers and mysticism believers experienced disruptions in the incidents of violations of freedom of religion/ belief in Indonesia. All religious communities are truly the potential and actual victims in each act of violation. Therefore, to prevent violations and disruptions from occurring, all religious communities must cooperate and unite either structurally in relation to the State or culturally among religious believers.

Overall, although not the highest, the number of violations of freedom of religion/ belief in 2016 was relatively high. The 2016 data confirmed a symptom of a significant increase in the number of violations within the two years of the President Joko Widodo's leadership. Throughout his presidential period, freedom of religion/ belief has not undergone a significant transformation towards a conducive state. It is generally influenced by the weakness of the superstructure of politico-legal and social infrastructure, which do not seem to experience significant improvements.

Associated with the President Joko Widodo and Vice President Jusuf Kalla political visions and missions which were declared in Nawa Cita (the nine priorities for Indonesia), their political promises were initially hoped to provide more conducive conditions of freedom of religion/ belief. However, the value of Nawa Cita is still far from its implementations in the operational practical level. In such situation, public will continue to demand government's concrete measures to realize its promises for the better protection of the constitutional rights of citizens, specifically in terms of freedom of religion/ belief and protection of the rights of religious minorities.

Graphic 10.
Incidents and Acts of Violations within 10 Years



Cumulatively, there were 2,085 incidents and 2,776 acts of violation within the last 10 years. Most of these incidents received impunity and were not fairly prosecuted in order to bring justice especially to the victims. Such impunity poses a serious threat. In the study of human rights, there is a classical phrase known as the “semper ad deteriora invitat impunity”, which means impunity always leads to greater crimes. To prevent violations from reoccurring, the State must guarantee fair enforcements of the law.

C. General Reflections

In general, the key findings of SETARA Institute’s research and monitoring showed a significant increase to the violations of freedom of religion/ belief. Such increase proves that the fifty percent (50%) decrease from 222 incidents in 2013 to 134 incidents in 2014, is a temporary phenomenon related to the dynamics of the general elections in those years. On one hand, in the national general election in 2014, candidates refrained themselves in order to keep their political images in tact. On the other hand, the government operationalized political stability by mobilizing all its resources to create an image of a peaceful

and democratic election as its political success.

The 2016 data confirmed that the trend of the increasing violations of freedom of religion/ belief was going at a fast rate. In terms of the incidents of violation, there were 134 incidents in 2014, 197 incidents in 2015, whereas in 2016, there were 203 incidents. From the acts of violations aspect, there were 177 acts in 2014, 236 acts in the year after, whereas in 2016, there were 270 acts [see graphic 10].

The upward trend showed that there have not been any changes in the government fundamental policies relating to freedom of religion and belief as well as the patterns of social-community relations that allow the promotion of freedom of religion/ belief in Indonesia. SETARA Institute's analysis on the policy, State active acts, intolerant actors and consolidation of tolerant civilians indicates that the factors provoking the violations of religious freedom have not changed significantly.

In general, the main catalysts of violations of freedom of religion/ belief in Indonesia can be identified in four main factors: policy, State officials, intolerant actors, and civilians factors. The four factors have not experienced any significant changes. The absence of the changes can be explained through the following reflections.

The first reflection, in the aspect of macro policy, there are not any concrete policies at the presidential, ministerial and local level to ensure the constitutional rights of citizens to religion/ belief and to resolve fundamental issues that provoke various violations occurred during the previous administration.

In terms of the perspective, Jokowi's administration tends to have a simplified perspective on the issue of freedom of religion/ belief by viewing freedom as harmony. The harmony 'regime', which has been fought for, does not guarantee equal rights for all citizens to religion/ belief and to worship in accordance to their respective religions/ beliefs. The concrete example of the faulty perspective is the Religious Harmony Forum, which in practice, committed coercions or at least was hegemony to the minorities in the name of harmony. In fact, the forum was often the trigger of rights violations in the matter of the establishment of places of worship.

In terms of the approach, similar to the previous administration, the tendency of the present administration to give false hopes in responding to the issues of freedom of religion/ belief is starting to

appear. Among others, it can be seen from the government's declaration on the cancellation of regional regulations which hamper investments and are not in accordance with the spirit of unity and diversity or the government's declaration on the cancellation of discriminatory regional regulations which have been problematic. However, when examined in detail, cancellations of the discriminatory regional regulations were almost non-existent. Of all the 3,143 canceled or revised regulations were almost entirely on the deregulations to facilitate capital flows such as regional regulations levies, licensing, and so forth. There was only one discriminatory regional regulation canceled, namely East Kolaka Regional Regulation No. 4 of 2011 on the Prohibition of Prostitution because it contained provisions which discriminated women. There was not a single cancellation or revision of a regulation that discriminated religious groups in the regions, particularly the religious minorities.

From the changes aspect, Joko Widodo's administration does not have the courage to review and revise regulations and policies at the central level. In fact, one of the main weak points of the policies in the issue of freedom of religion and belief is at the central level, especially at the ministerial level. The government has not yet revised the most problematic policy, the Joint Decree of the Minister of Religious Affairs and the Minister of Interior No. 09 and No. 08 of 2006 on the Guidelines for the Duties of Mayor/ Vice Mayor for Inter-Religious Harmonization and the Empowerment the Inter-Religious Harmony Forum and the Building of the Place of Worship.

SETARA Institute's research data in the last ten years showed that from the 361 cases of disruptions to places of worship, almost all were caused by the ministerial regulation. Substantively, the decree does not provide justice and legal security to minority groups in relation to both intra and inter-religion. In that context, instead of optimizing the decree as an instrument of harmony and justice for all religious communities, it is often instrumented as the legal-administrative filter to complicate the establishments of places of worship of the minority groups. Such situations can easily be found in Aceh, North Sulawesi, Bali and Papua.

The weak policy factor was also found at the local level. The clear indicator was the high number of violations committed by the regency/ city government this year, as many as 31 acts of violation.

The second reflection is related to the fact that not only the policies

but the State officials also worsen the conditions of violations of freedom of religion/ belief in 2016. State officials from the local level (villages/ regencies) to the central level, including the Vice President, committed violations of freedom of religion/ belief.

The high level of violations committed by State officials, especially by the regency/ city government, police, provincial government and ministry of religion, were primarily caused by the government officials who were not neutral. Regents, Mayors, Police and the Ministry of Religion often stood ambiguously as the State officials as well as the public servants or as the adherents of particular religions/ beliefs.

In the poor state of the policy aspect, State officials in fact could still reduce the potential acts of violation of freedom of religion/ belief by taking proportional measures in accordance with their duties and functions. The State police, for example, can still guarantee the rights of citizens to freely adopt religion/ belief by playing their roles as the public servants, and the protectors of the people. On the contrary, in some cases they had the tendency to commit acts of omission, as in the incident of the members of Gafatar expulsion and arson of their assets in Mempawah.

Another example was the acts of violation by regents/ mayors. They should be the State representatives whose basic functions are to embrace and encompass all citizens. However, in reality, this is not the case. An act of violation was demonstrated by the Regent of Bangka, Tarmizi Saat, who committed expulsion to the Ahmadiyya adherents from Srimenanti, Sungailiat, Bangka Regency in early 2016.

Moreover, Tarmizi's act of violation has clearly overstepped the Central Government's commitment to protect and provide security to all citizens, to protect marginalized groups, and to create dialogues among citizens. Such act also exceeds his authority as the head of the region because religious affairs are not concerns that can be decentralized through regional autonomy.

What happened in Bangka was not a single phenomenon. Many of the head of the region's acts of violation were likely to treat religions as objects of politicization in order to realize the interests of partisan politics by obeying the will of the majority. State government officials' acts of violation tend to justify the partisan politics' numerous religious choices through violating the rights of the citizens.

Such politicization badly affects the life of the nation, especially with the addition of provocations in the form of religious sentiments. It is the very reason why our electoral politics banned the use of ethnicity, religion, race and intergroup (Suku, Agama, Ras dan Antargolongan/ SARA) issues in a variety of political celebrations in Indonesia. It is a manner and a form of civilized democratic politics as well as a mitigation tool to prevent the diverse society divisions and to unite in a single ligature and a common denominator, the Pancasila.

The third reflection is regarding the increasing numbers of intolerant groups. The emergence of the intolerant groups in various areas, among others, is related to the strengthening of the politicization of religion and the instrumentation of religious sentiments. It was also influenced by poor enforcements of the law and national politics in the presence of the majority.

The violence that occurred in Tolikara, Aceh Singkil, and Tanjung Balai is a small portion of an impact of the religious sentiments instrumentation to mobilize violence. Through the politicization and religious sentiments instrumentation, a group of citizens can quickly transform into an intolerant group.

In 2016, the strengthening of social and political roles of the intolerant groups found its new momentum that was mainly triggered by the preference of the Indonesian Ulema Council (Majelis Ulama Indonesia/ MUI) to engage in politics through the issuance of its fatwa (edicts). Basuki Tjahaja Purnama's (Ahok) propositions, related to Surah Al Ma'idah 5:51, to worship religions critically and to avoid the use of religious propositions for political purposes were treated by MUI as a momentum to issue an edict (fatwa) of defamation which then provoked the consolidation of intolerant groups to influence the political dynamics in the Governor of Jakarta Election.

MUI religious views published on October 11, 2016 had double impacts. The first impact was the politicization of religious identity. MUI explicitly used religious issues to gather political supports for other governor and deputy governor candidates besides Ahok and Djarot. The second impact was the consolidation of the intolerant groups. The groups who have been imposing their wills, such as the Islamic Defenders Front (Front Pembela Islam/ FPI), then found the momentum to consolidate and mobilize Muslims by forming what

they called as National Movement to Safeguard the Indonesian Ulema Council's Fatwa (Gerakan Nasional Pembela Fatwa MUI/ GNPf-MUI).

The fourth reflection is in regards to the civilians factor. In some incidents of violation towards citizens' constitutional rights to freedom of religion, it appeared that the tolerant civilians in the region, at least in specific cases or contexts, were weak and not solid. In the case of a serious discrimination against members and ex-members of Gafatar, there were not many civilians who showed the courage to provide assistance and promotion of the Gafatar members' constitutional rights as citizens.

Another case in Yogyakarta, the phenomenon of the weak solidarity of civilians was also seen when a small group of people on behalf of the Yogyakarta's Muslim Forum (Forum Umat Islam DIY/ FUI DIY) intimidated and threatened the Duta Wacana Christian University (Universitas Kristen Duta Wacana/ UKDW) to take down its billboard because it showed photos of veiled female students. If the billboard had not been taken down, they would have gathered a large number of people, attacked the university and taken down the billboard by force.

Civilians, religious organizations and Non Governmental Organizations (Lembaga Sosial Masyarakat/ LSM) in Yogyakarta tended to be silent. They did not take the initiative to defend and to stop practices of intolerance, discrimination, and violence in Yogyakarta. The academic community/ academicians in all regions of Yogyakarta, as the essential elements of Yogyakarta as the City of Education, also displayed similar attitudes. They tended not to be solid as civilians, which was evident from the absence of their support towards the victims and of their condemnation towards the perpetrators. As a result, the Duta Wacana Christian University finally chose to submit to the will of the intolerant groups.

One main note which should be the concern of the Jokowi-Jusuf Kalla administration and the entire State officials is the strengthening of intolerance. Groups of people regularly become the perpetrators of acts of intolerance. In the previous section, the Non-state actors' acts of violation graphic obviously explained that the potential and actual threats to freedom of religion/ belief were originated from socio-cultural and horizontal knots. Such acts of intolerance of the citizens group were

intensified by similar acts which were often committed by community organizations with religious backgrounds, for instance FPI, FUI as well as the alliance of several religious organizations.

Those acts received their justifications through the use of religious dogmas to negate others and through the use of religious edicts issued by MUI on misdirections and prohibitions. In many cases, acts of intolerance also occurred due to and as an excuse to implement the religious Fatwa (edicts). For example, the MUI's Fatwa No. 56 of 2016 on the Use of Non-Muslim Religious Attributes clearly provoked some intolerant groups to conduct religious attributes raids. Similarly, the MUI's fatwa on defamation of religion which was addressed to Basuki Tjahaja Purnama after his speech regarding Surah Al Ma'idah 5:51 had consolidated several intolerant groups to commit acts of violation such as intolerance, discrimination, hate speech and hate crime. Thus, there was inter-causality between dogmas as well religious fatwa and acts of intolerance of the intolerant groups.

Furthermore, the situation was exacerbated by the two forms of State officials' acts. The first form was the discrimination against religious minorities as the result of the submission to the will of the intolerant groups. As discussed in the previous section, the 2016 freedom of religion/ belief data showed that violations committed by State actors were dominated by the Regency/ City Government. According to the data presented in the previous section, of all the 31 acts of violations committed by Regency/ City Government, almost 50% or 12 acts were in the forms of discrimination and discriminatory policies such as announcement letters on the uniformity of religious behaviors and coercions of religious practices addressed to public and other officials at the regency/ city.

Included in the form of discriminatory policies were the compulsions to study Islam, to read Al-Qur'an, to wear Muslim clothes through local regulations and the sweeping of food stalls and people who ate during the days of Ramadan month carried out by the Civil Service Police Unit as instructed by the Regent/ Mayor. In addition, the uniformity of religious behaviors policy was also dominant as the acts of the regency/ city governments in Aceh, Padang, Batang, Bogor, Sukabumi, Pamekasan, Gresik and others.

In many incidents, acts of violation by government officials,

especially the regency/ city governments intersected with the acts of intolerance by the intolerant groups. The data showed that discriminatory policies issued by the government were motivated by and subject to the pressures and demands of the intolerant groups, either in the form of the popular religious organizations in the society such as FPI, Islamic mass organizations, alliance of religious mass organizations or groups of citizens in a regency/ city, district or village.

Local governments' discriminatory acts of violation related to cases experienced by the Ahmadiyya adherents, who became the biggest casualties this year, mostly overlapped with the acts of intolerance committed by the intolerant groups. In order for the local governments to provide their services, they committed acts of violation in the form of coercion of beliefs or in the name of returning to the right path of Islam by not issuing the identification cards (Kartu Tanda Penduduk/ KTP), dismissing the Building Permit (Izin Mendirikan Bangunan/ IMB) and sealing the Ahmadiyya mosques, forcing the termination of or prohibition of religious practices, committing acts of omission towards the remaining Ahmadiyya adherents in Transito, Lombok and expulsing the Ahmadiyya Community which occurred in Bangka. All acts of violation were related to the intention to respond to the intolerant groups' demands.

The second form was the adaptation of religious fatwa (edicts) in the State government formal regulations. In many cases, the discriminatory policies adapted religious fatwa, MUI's fatwa in particular, as a part of the preamble. Most Legal Studies and State Laws experts argued that MUI's fatwa cannot be the sources of law.⁴⁷ In reality, the adaptation MUI's fatwa as bases of law has been implemented for a long time. The Joint Decree of 3 Ministers on banning the religious dispersions or activities of the Ahmadiyya adherents, West Java Governor Regulations on the same issue, and many others referred their legal basis to the MUI fatwa.

⁴⁷ See Denny Indrayana (2016), "*Fatwa MUI, Hukum Positif, dan Hukum Aspiratif*", <http://nasional.kompas.com/read/2016/12/22/17262341/fatwa.mui.hukum.positif.dan.hukum.aspiratif>, accessed on December 23, 2016. See also Mahfud MD (2016), "*Fatwa MUI dan Living Law Kita*", Media Indonesia, December 26, 2016. Through statements to various medias, the government's point of views (starting from the President, the Vice President to the Chief of Police) regarding the relation between the MUI fatwa with the positive law is approximately the same.

Such situation resulted in the failure of the fair enforcement of the law. Criminalization of victims of violence in the name of religion as experienced by Tajul Muluk in the Sampang Tragedy II in 2012 and the courts which submitted to the wills of the crowd were concrete examples of the enforcement of laws failures regarding freedom of religion/ belief.

The situations simultaneously indicated the emerging and strengthening of the supremacy of intolerance. Intolerance, which is culturally entrenched, has inter-causality with dogmas and religious fatwa, legitimized by State policies which adopt such dogmas and fatwa, and resulted in the enforcement of laws failures, has undermined the supremacy of the law and the constitution.

Based on SETARA Institute's data in 2016, intolerance supremacy thesis received striking argumentative reinforcements regarding the incidents and acts of violation against the Ahmadiyya Communities in Bangka and in Kendal and against Ahok as well as Gafatar. The Intolerance Supremacy Thesis demands a holistic response from the State, not only to restore the constitutional rights of all citizens in the matter of religion/ belief, but also to restore the supremacy of the law and the constitution.

At the macro level, intolerance supremacy has a tendency to survive and even be reinforced by the socio-cultural catalysts such as the acts of defending Islam mobilizations to the benefit of the politicization of religious identity and the legal-structural catalyst such as the positive law and judicial practice. Without comprehensive efforts to address the intolerance catalysts, thus the striking intolerance supremacy throughout 2016 will still continue, and will even be strengthen in 2017.[]



CHAPTER III

Conditions of Religious Minorities in Indonesia in 2016

A. Background

This chapter presents a portrait of religious minority rights protection in Indonesia from the negative rights perspective. In accordance with the theoretical framework described in Chapter I, there should be four groups of minorities whose religious rights protection conditions should also be portrayed in this report. Those four groups of minorities are namely the mainstream minority, minority within a religion, Indonesian traditional religion minority, and new religious movement minority. Three groups of minorities will be reviewed in Chapter III. Meanwhile, the citizens' constitutional rights violations towards a new religion movement minority such as Salamullah, a former leader of Fajar Nusantara Movement (Gerakan Fajar Nusantara/ Gafatar), will be reviewed in Chapter IV.

The explanations in this chapter are based on the descriptions and primary data analysis of interview results from various informants (three to four informants per region) who were purposely selected from ten selected regions with the addition of one national territory represented by four informants. The total number of informants was 39 people.

Not only this chapter is based on the analysis of the primary data, descriptions and reviews, it is also based on the secondary data analysis

such as mass media, print media, reading materials and other documents which are relevant to the research and monitoring purposes conducted by SETARA Institute regarding the freedom of religion/ belief and the conditions of religious minorities protection in Indonesia in 2016.

The data collecting process is then concluded with the technique of Focus Group Discussion (FGD) of experts regarding the conditions of freedom of religion/ belief and religious minorities in Indonesia. The FGD was attended by 15 parties representing the groups of civilians, victims of violation, and religious minority organizations.

The display data and analysis on the conditions of religious minorities in Indonesia in 2016 are presented by accumulating cases experienced by the minority groups in categories mentioned above and by describing patterns of violations against their constitutional rights as religious minorities. However, the categorization of the four minority groups as previously reviewed does not necessarily mean that the cases experienced by the groups of minorities are categorized into four groups. There can be more than four minority groups who become the objects of violations as in each category there may be more than one or two subcategories. For example, there might be one, two, or even three more minority groups within a particular religion. The same situations applied to the categories of other minority groups. Numbers of the groups are dynamic in accordance with the violations committed to them throughout the years. In 2016, the conditions of religious minority rights protection are grouped into three minority groups, while the new religious movement groups will be presented separately in Chapter IV of this report.

B. Cases against The Ahmadiyya Adherents

The Ahmadiyya adherents (Ahmadis) are members of a religious minority group who often become the victims of violations of freedom of religion/ belief. The violations towards the Ahmadis' religious rights are circular phenomena, in particular regarding the incidents experienced by them in the last decade.

Ten years ago, hundreds of Ahmadis in West Nusa Tenggara, who previously lived harmoniously with the surrounding communities, were abruptly excluded and ostracized from the communities' social

lives. They were despised, attacked and expelled from their homelands. Moreover, their belongings were seized and their settlements in Lingsar Sub-district of West Lombok Regency were destroyed and burnt down by groups of people on February 4, 2006.

There were more than 180 Ahmadis who became the victims of such acts of violence. More than 33 families consisting of 130 people were evacuated to an establishment called Wisma Transito in Mataram, the capital of West Nusa Tenggara. Meanwhile, the remaining refugees were evacuated to Central Lombok Regency.⁴⁸

Since then, the biggest victims of the incident remained in Wisma Transito, which resembled to a refugee camp. Ahmadis were forced to survive in the refugee camp without certainty. Until now, 10 years after the incident, local and central governments have not taken any significant steps to return them to their homelands or to rehabilitate their constitutional rights. However, they have been gradually provided with the population administrative services.

Another massive incident of violation experienced by the Ahmadis was the Cikeusik incident in 2011. Precisely on Sunday on the 6th of February 2011, there was an attack conducted by hundreds or perhaps thousands of Cikeusik village residents against the Ahmadis who resided in Umbulan village in Cikeusik, Pandeglang. This attack resulted in the death of three Ahmadis as well as the destructions of Ahmadis' properties and belongings such as two cars, one motorcycle and a house.

Apart from the two cases above, Post 2011, Ahmadis continues to become the victims in numerous acts of violation. Based on SETARA Institute's records, from 2012 until 2015 they became victims of constitutional rights violation in 164 incidents regarding the issue of religion/ belief.⁴⁹ One can only imagine how high the intensity of

48 Ajeng Ritzki Pitakasari (2010), "Warga Ahmadiyah Lombok Kembali Mengungsi", <http://www.republika.co.id/berita/dunia-islam/islam-nusantara/10/11/20/147665-warga-ahmadiyah-lombok-kembali-mengungsi>, accessed on November 3, 2016.

49 See Halili, and associates. *Kepemimpinan Tanpa Prakarsa: Kondisi Kebebasan Beragama dan Berkeyakinan di Indonesia Tahun 2012* (Pustaka Masyarakat Setara, Jakarta). Halili dan Bonar Tigor Naipospos (2014), *Stagnasi Kebebasan Beragama: Kondisi Kebebasan Beragama dan Berkeyakinan di Indonesia Tahun 2013* (Jakarta: SETARA Institute, 2013). Halili dan Bonar Tigor Naipospos, *Dari*

violations committed to them was.

Incidents and acts of violation towards the basic rights of the Ahmadiyya adherents in Indonesia in 2016 confirmed the peak phase of repression against them within two aspects at once, namely politico-legal and socio-cultural aspects. The deterioration of the protection situations of the Ahmadis' constitutional rights occurred in various aspects and areas. Generally, such cases of violation towards the religious rights of the Ahmadiyya adherents were as follows.

The first case was the accumulation of violations against the Ahmadiyya adherents in Bangka Regency of Bangka Belitung Province. They experienced coercions of conviction and expulsions.

Coercions of conviction and expulsions against the Ahmadiyya adherents were committed by the Regency Government of Bangka Belitung in accordance with the Letter number 470/0005/III/2016, which was signed by the Regional Secretary of Bangka, Ferry Insani. In essence, the letter provided two options for Ahmadis in Bangka who resided in Srimenanti village. The first option was for Ahmadis to return to the true path of Islam. Meanwhile, the second option was for them to evacuate Srimenanti village.

Central government was not in agreement with the actions taken by the Regency government of Bangka. Minister of Interior Tjahjo Kumolo expressed his strong disagreement to the Governor of Bangka. Tjahjo forbade Tarmizi to expel Ahmadiyya adherents from the area. Tjahjo claimed that he received a report concerning the forced expulsion of the Ahmadis in Bangka and instructed the local government to take preventive measures in order to prevent the mass from committing vigilantism.

Through a short message sent on Monday on the 25th of January 2016, Minister Tjahjo stated that the local government must maintain a stable situation, take conducive measures, and coordinate intensively with the *Coordination Forum of Regional Leaders* (Forum Koordinasi

Stagnasi Menjemput Harapan Baru: Kondisi Kebebasan Beragama dan Berkeyakinan di Indonesia Tahun 2013 (Jakarta: SETARA Institute, 2015). See also Halili, *Politik Harapan Minim Pembuktian: Kondisi Kebebasan Beragama dan Berkeyakinan di Indonesia Tahun 2013* (Jakarta: SETARA Institute, 2016).

Pimpinan Daerah/ Forkompimda) to take early preventions of vigilantism.⁵⁰ Furthermore, Minister of Interior technically assigned Didi Sudiana, the Director of the National Vigilance, together the Team of Coordinating Ministry for Political, Legal, and Human Rights affairs to visit the Governor of Bangka, representatives of the Ahmadiyya community and leaders of the local organizations.

However, the visits of the Echelon II officials of the Ministry of Interior and its team did not bring any results. The delegations from Jakarta were not able to rebuke the Governor, much less to suppress the Governor to withdraw the letter concerning the expulsion of the Ahmadiyya adherents from Sungailiat Bangka Regency. In the end, Tarmizi was persistent with his decision to cast the Ahmadiyya adherents out of the Bangka Regency.

There was even a sense of pride coming from the Governor of Bangka when he gave the order to expel the Ahmadiyah adherents. He admitted that he personally gave the order to expel the Ahmadiyya adherents from Bangka Regency. He even stated that it was not the first time for the Ahmadi to be regulated. Moreover, he once gave an order to level down the Ahmadiyya's mosque. "I am notorious amongst the Ahmadiyya community. When I became the regional secretary in 2010, I gave an order to destroy the Ahmadiyya's mosque. I am certain that the Ahmadiyya adherents are familiar of me. When I gave the expulsion order, it was not the first time they met me."⁵¹

Within the time of the incident, an Ahmadiyya adherent became an act of terror victims whose property's roof was struck by wood and stones. This was a form of the citizens' protest against the Indonesian Ahmadiyya Community (Jemaat Ahmadiyya Indonesia/ JAI). The act of throwing wood and stones was a way to terrorize the adherents in order for them to leave Bangka Regency.

The peak moment was the act of expulsion when the Ahmadiyya

50 Deddy Priatmojo and Moh Nadlir (2016), "Kronologi Pengusiran Warga Ahmadiyah di Bangka Belitung: mendagri Minta Warga Tidak Melakukan Aksi Anarkis" <http://nasional.news.viva.co.id/news/read/727277-kronologi-pengusiran-warga-ahmadiyah-di-bangka-belitung>, accessed on November 3, 2016.

51 Vindry Florentin (2016). "Ini Kronologi Pengusiran Jemaat Ahmadiyah di Bangka". <https://m.tempo.co/read/news/2016/02/09/058743223/ini-kronologi-pengusiran-jemaat-ahmadiyah-di-bangka>, accessed on November 2, 2016.

adherents were gathering at the Secretariat of Indonesian Ahmadiyya Community in Srimenanti village, Sub-district of Sungailiat, Regency of Bangka Belitung. Hundreds of people came to the Secretariat with the purpose of expelling them from Bangka Belitung by force. Fortunately, the combined forces of the Mobile Brigade Corps (Brigade Mobil Polisi), Indonesian Nasional Army (Tentara Nasional Indonesia/ TNI) and Civil Service Police Unit (Satuan Polisi Pamong Praja/ Satpol PP) immediately reacted and managed to prevent the crowd from taking further actions.

The second case was misdirection of religious teachings. In 2016, many acts of misdirection were committed by actors of violation especially by the non-State actors. An act of misdirection was committed in Lampung by the local Indonesian Ulema Council (Majelis Ulama Indonesia/ MUI). Another act of misdirection was committed against the Ahmadiyya adherents by the local MUI in West Sumatera. In a fatwa which was based upon the central MUI's fatwa stated that, in terms of teachings, Ahmadiyya Muslim Community was heretical. Therefore, it was not considered as Islam.

Acts of misdirection and condoning nuanced with hatred were also committed by several Islamic leaders and scholars for example K.H. Asep Ahmad Maoshul Affandy, a scholar in West Java. He stated that "Indonesian citizens who do not adhere to a religion will not be provided with identification cards (Kartu Tanda Penduduk/ KTP). If they wish to obtain their identification cards then they will have to reconvert to Islam." According to Asep, this statement was related to the existence of religious groups, apart from the 6 religions recognized by the State, who demanded the issuance of identification cards.

This Islamic expert (Kyai) who is also a member of Commission II of House of Representatives of the Republic of Indonesia from the United Development Party (Partai Persatuan Pembangunan/ PPP) emphasized that Ahmadiyya Muslim Community which was quite often discussed by public, was not Islam. The remark was made by K.H Asep when he visited Al Amin Islamic Boarding School in Karangtawang village, Garawangi, Kuningan on Wednesday August 10th 2016.

"No matter what, Ahmadiyya is not a religion and is not Islam because Ahmadis have a new Messenger (Rasul). Tjahjo, the Minister of Interior, gave an order to keep the column of religion information in the

identification card empty for the Ahmadiyya adherents. The question is, how is Pancasila positioned in this issue? Will Pancasila be changed for this? Of course not! It means that Ahmadis need to return to the right path of Islam” claimed K.H Asep to several media journalists.”⁵²

Related to the statement, KH Asep asserted that Ahmadiyya was not a part of Islam and that relevant authorities should not issue their identification cards. If Ahmadis wished to obtain their identification cards, they had to integrate with a religion recognized by the State. The statement was made by K.H Asep in relation to the recess visits in the Regency of Kuningan in West Java in which numerous Ahmadis were allegedly resided.⁵³

The third case was hate speeches. In 2016, several incidents were surfaced which included acts of hate speeches against the Ahmadis. They were committed by a group of citizens in Gempolan village, Pakel Sub-district, Regency of Tulungagung in East Java. They committed such acts by conducting demonstrations and carrying banners which stated “Disband Ahmadiyya or Revolution.” In their defense, the Ahmadiyya community was unsettling the public. According to them, even though the mosque belonging to the Ahmadiyya community was officially closed on May 20th, the community was not disbanded and still continued to perform its religious activities.

The fourth case was the forced termination and prohibition of religious activities. The act of forced termination of religious activities of the Indonesian Ahmadiyya Community was committed by the village officials and community leaders of Gempolan Village, Pakel Sub-district of Tulungagung Regency. According to Isroful Mustafa, the Village Head of Gempolan, the reason behind such act was that citizens felt unsettled and were furious after discovering three Ahmadis who continued doing their religious activities secretly despite the fact that their mosque was leveled down in 2013.

Finally, after being objectified of acts of coercion, the Ahmadis were prohibited from conducting any religious activities which was

52 <http://kuninganmass.com/government/kh-asep-maoshul-affandy-ahmadiyah-bukan-islam>, accessed on November 3, 2016.

53 <http://www.radarcirebon.com/anggota-dpr-ini-berpesan-ahmadiyah-jangan-ber-ktp.html>, accessed on November 3, 2016.

approved by the Indonesian Ulema Council in Gempolan Village, Pakel Sub-district of Tulungagung Regency. In connection with the prohibition of religious practices, Muhaji Rofi'I, the Secretary General of the Indonesia Ulema Council of Tulungagung, had previously declared that Ahmadiyya was a heretical sect which should not develop in the jurisdiction of Indonesia.

Not only in Tulungagung, prohibitions of religious practices also occurred in Subang. Prohibitions of religious practices towards the Ahmadiyya adherents were in accordance with the Letter number: 450.1/35/tib issued by the head district of Subang on 29th January 2016. The letter stated that the Ahmadiyya adherents were forbidden to conduct any religious activities in the sub-district of Subang in West Java and it was directly signed by the Head of Subang Sub-district, Tatang Supriyatna.

From SETARA Institute's as well as the Ahmadiyya adherents' perspectives, which they stated in press conferences, such letter should be ignored, particularly the 5th and 6th points of the letter.⁵⁴ Based on the normative construction of *Pancasila* and the constitution it is clear that the restriction letter of the Ahmadiyya activities issued by the Head of Subang Sub-district is a non valid policy and contradicts the applied law. Therefore, the rights of the Indonesian Ahmadiyya Community in Subang to worship and conduct religious activity whether in mosques or in other places are allowed as long as they do not contradict any laws.

In connection to the mentioned policy, the Ahmadiyya has repeatedly requested the local government of Subang to perform their obligations in order to fulfill the rights of the Indonesian Ahmadiyya Community in Subang. They have also asked the central government to partake in monitoring and ensuring the local government to perform its duties. Therefore, President Jokowi's Nawacita program, which among other things states that "the State is present to provide security for all citizens and to strengthen diversity by providing opportunities to conduct dialogues among citizens", will actually be realized at all levels of government, including at the Regency of Subang.

54 See "Siaran Pers Pelarangan Ibadat Jemaat Ahmadiyah Subang", can be accessed from <http://ahmadiyah.id/pelarangan-ibadah-jemaat-ahmadiyah-subang>, on November 20, 2016.

The fifth case was the acts of threatening and terrorizing the children of the Indonesian Ahmadiyya Community. In cases of violations against the Ahmadis, not only adults but also children became victims of the violations. During the expulsion incident occurred in Srimenati, children became the victims of terror and were threatened to be slaughtered. Such threat caused the children to feel frightened both at home and at school.

The sixth case was the discrimination acts against the Ahmadiyya adherents in various areas by local governments. The Ahmadis experienced acts of discrimination, in particular concerning their rights to obtain their identification cards (Kartu Tanda penduduk/ KTP). In Bangka, the local government did not issue their ID cards due to the pressure from certain groups. This incident was also experienced by the Ahmadis in West Nusa Tenggara, East Java, Central Java, West Java and many other provinces.

According to a statement by the spokesman of the Central Committee of Indonesian Ahmadiyya Community, Yendra Budiana, the prohibition of the ID cards was a serious matter not only for the Ahmadis but also for all citizens. Negotiations in order to resolve this issue have been tough. For Instance, the issue of the Ahmadis ID cards that occurred in Kuningan. Ahmadis' ID cards had been issued, however, they were never given to the Ahmadis. The House of Representative had already instructed regional leaders in Kuningan, particularly the Regent of Kuningan, to distribute the ID cards to the Ahmadis. However, the ID cards were still not given to them.⁵⁵

As a result, approximately 1,772 of Ahmadiyya adherents were obstructed from obtaining their ID cards due to the reluctance of the local government in distributing them despite the fact that the ID cards had already been issued. One of the reasons why the local government did not immediately distribute the ID cards was due to the pressure that it received from other Islamic organizations, including the Islamic Defenders Front (Front Pembela Islam/ FPI) and Anti

55 Yendra Budiana (2016). The information was presented in the Expert Meeting for the preparation of a report of the Condition of Freedom of Religion/ Belief and the Protection of Religious Minorities in Indonesia in 2016, at Hotel Sofyan-Betawi, on December 21, 2016.

Immoral Movement (Gerakan Anti Maksiat/ Gamas) of the Regency of Kuningan.

Apart from the ID cards, another Ahmadiyya adherents' problem regarding the population administration was marriage records. In Tanjung Pinang for example, the court stated that Ahmadiyya adherents were not legally married. Thus, marriage records were not issued and this was simply because Ahmadis were not Islam adherents. This incident was then brought to court.⁵⁶

Furthermore, acts of discrimination against the Ahmadiyya adherents occurred in Bintan. They were committed by the Regent of Bintan, Apri Sujadi, by not issuing a permit for the mass religious meeting (*Tabligh Akbar*) which were conducted by the Ahmadiyya community. On Friday 16th September 2016, Ahmadis who intended to cross to Numbing island to participate in the *Tabligh Akbar* had to cancel their plans after being prohibited not only by the Regent of Bintan but also by Police Commissioner (Komisaris Polisi/ Kompol) Heryana, the Deputy Chief of Police Resort (Wakil Kepala Polisi Resor/ Wakapolres) of Bintan, Pantai Indah, Kijang, East Bintan.

At first, groups of Ahmadis intended to go to Numbing Island to visit their families whom they had not seen for a long time. Apart from that they also had the internal agenda but they did not invite or informed the local residents. However, as they were forbidden to cross to Numbing Island by the police, they were forced to cancel their trips to the *Tabligh Akbar*.⁵⁷

The seventh case was the acts of omission against the Ahmadiyya community who constantly became the target of violence and intimidation of the intolerant groups. Several reports showed that at least 400 people had experienced acts of intimidation and violence since October 2015 until February 12th 2016. Thus, the settlement of the Ahmadiyya's case demands the active participation of the central government.

As noted earlier, hundreds of Ahmadis in West Nusa Tenggara,

⁵⁶ Ibid.

⁵⁷ Admin (2016), "Polisi Larang Puluhan Anggota JAI Ikuti Tabligh Akbar di Pulau Numbing", <http://www.batamtimes.co/2016/09/16/polisi-larang-puluhan-anggota-jai-ikuti-tabligh-akbar-di-pulau-numbing/>, accessed on November 23, 2016.

who previously lived harmoniously with the surrounding communities, were abruptly excluded and ostracized from the communities' social lives. They were despised, attacked and expelled from their homelands. Moreover, their belongings were seized and their settlements in Lingsar Sub-district of West Lombok Regency were destroyed and burnt down by groups of people on February 4, 2006. Until now, they have been living in uncertainty due to lack of active participations of the government.

The eighth case was the acts of reporting and criminalizing against the Ahmadiyya adherents in Srimenanti village, Sungailiat, Bangka Belitung. Approximately 12 communities and Islamic organizations which were represented by their respective delegations came to the district police of Bangka to file reports on the representatives and adherents of Ahmadiyya in Sungailiat.

The representatives of communities and Islamic organizations came to the Central Headquarters of District Police (Markas Polisi Resor/ Mapolres) of Bangka to report the allegations of Islam defamation committed by the Indonesian Ahmadiyya Community in the village of Sri Menanti, Sub-district of Sungailiat of Bangka Belitung province.

Budiono, the legal advisor of the association of community organizations and the Islamic organizations of Bangka Regency, stated that before they reported the matter to the police, they had previously held a meeting with the Monitoring Body of Religion and Belief (Pengawas Aliran Kepercayaan Masyarakat/ PAKEM) and the district police of Bangka Regency. According to Budiono, the citizens of Srimenanti were furious with the Ahmadi in Sri Menanti village, who were previously evacuated from the area but then returned to the secretariat not long after the evacuation.⁵⁸

Similar incident occurred in East Lombok. The Ahmadi became the victims of acts of criminalization. A total of 8 (eight) Ahmadiyya adherents were detained by the District Police (Polisi Sektor/ Polsek) of

58 Dewi Rahmawati (2016), "12 Ormas Islam Polisikan Jamaah Ahmadiyah", <http://nasional.news.viva.co.id/news/read/750528-12-ormas-islam-polisikan-jamaah-ahmadiyah>, accessed on November 3, 2016. See also Isyana Artharini (2016), "Penolakan terhadap Ahmadiyah di Bangka", http://www.bbc.com/indonesia/berita_indonesia/2016/01/160126_indonesia_ahmadiyah_bangka, accessed on November 3, 2016.

Sinambel in East Lombok due to their beliefs (prisoner of conscience). The detention and interrogation process were conducted by the police after series of warnings towards the Ahmadis to discontinue conducting their religious activities or spreading their teachings and to return to the mainstream religious teachings.

The ninth case was acts of misdirection towards the Ahmadiyya community by the Indonesian Ulema Council (Majelis Ulama Indonesia/ MUI) of West Sumatra Province. Duski Samad, the MUI leader of West Sumatra, stated that the public should be aware of the Ahmadiyya cult which has resurfaced and committed apostasy. Samad emphasized that the Ahmadiyya community, Fajar Nusantara Movement (Gerakan Fajar Nusantara/ Gafatar) and Indonesia Institute of Islamic Dawah (Lembaga Dakwah Islam Indonesia/ LDII) were cults. Their good intentions to return to Islam were not truly sincere and they were still persistent on the prophet whom they worshipped after the prophet Muhammad.

According to Samad, they have repeatedly offered two options to the community. First, it was requested to return to the true and perfect teachings of Islam. Second, it was requested to stand independently and to no longer carry the name of Islam in each of its religious activity. According to one of the religious leaders in West Sumatra, the Ahmadiyya community should not have conducted any religious activity. However, they showed a straightforward move such as appointing a Minang public figure to be their Islamic leader.

In Samad's point of view, if the Ahmadiyya's plans were to be implemented, then there would be an indication for them to bring into conflict among Islamic public figures, which should be everyone's concern. Samad asserted that if they still considered Mirza Ghulam Ahmad as the last prophet, then it would still be referred to a cult.⁵⁹

The tenth case was the forced termination of the renovation of a mosque belonging to the Indonesian Ahmadiyya adherents in Parakansalak Sukabumi by police officers. The renovation on the

⁵⁹ Anonymous (2017), "Ahmadiyah, Gafatar dan LDII masih berstatus Aliran Sesat" <http://hariansinggalang.co.id/ahmadiyah-gafatar-dan-ldii-masih-berstatus-aliran-sesat/>, accessed on November 21, 2016.

mosque was conducted on the account of it being burnt in 2008. In Parakansalak Sukabumi, both residents and police officers rejected the existence of the Ahmadiyya mosque hence the Ahmadiyya community in Parakansalak did not own a mosque. Similar incidents and acts occurred in Purworejo Village, Sub-district of Ringinarum in Kendal. The destruction of the mosque belonging to the Ahmadiyya community by hundreds of people was followed by the revocation of its Building Permit (Izin Mendirikan Bangunan/ IMB). However, even if the IMB was issued this vandalism would still be committed by the mass as an excuse of refusing the existence of an Ahmadiyya's mosque.

The act of vandalism by the mass of intolerant group was initiated by the arrival of the local urban village head and sub-district head in Purworejo village. The arrival of the village and sub-district officials was to discuss the issue regarding the ongoing construction of the mosque and to inform their plan to confront the Ahmadiyya community and the Regent of Kendal in order to rectify the issue of the construction of the mosque which was rejected by most local citizens. A certificate and an IMB were finally issued at the beginning of the construction in 2003.

The arrival of the two government officials turned out to be accompanied by a soldier and two police officers standing by in front of the mosque which development was in the stage of completion. The construction workers were on the site but when government representatives arrived, the workers did not continue their work. They were ordered to stop by the urban village head with the excuse of letting the workers to have their breaks. In fact, the construction of the mosque was almost completed. The workers only needed to install the roof of the mosque.

Afterwards, there was a debate between Ta'zis, the representative of the Ahmadiyya adherents, and the urban village head. Ta'zis asserted that the construction of the mosque was in accordance with the procedures and the Building Permit as well as the certificate had been obtained. The purpose of constructing the mosque was legitimate as it accommodated a large number of Ahmadiyya adherents which reached to approximately 100 people. However, the urban village head remained adamant that the construction process of the mosque should be terminated.

The administrators of construction of the mosque planned to hire

other construction workers in hope that construction of the mosque which began in 2003 could shortly be resumed on Saturday and Sunday. On Sunday night of May 22nd 2016, the Ahmadiis heard the news about a meeting between the local government and a number of residents in the village hall to discuss the construction of the mosque.

However, exactly at dawn on Monday the mosque was destructed. Most parts of the mosque were vandalized. The walls in the recitation room were torn down. The windows, roofs, even the Al-Qur'an were also marred by a group of mass intolerants. Although there were no casualties in the incident, the mosque which already been granted its certificate and Building Permit (Izin Mendirikan Bangunan/ IMB) suffered a major loss of more than two hundred million rupiahs.⁶⁰

After the incident, *Communication Forum of Regional Leaders* (Forum Komunikasi Pimpinan daerah/ Forkompinda) of Kendal in Central Java, agreed to recommend the revocation of the mosque's Building Permit (Izin Mendirikan Bangunan/ IMB) in Purworejo, Ringinarum Sub-district of Kendal Regency. According to Religious Harmony Forum (Forum Kerukunan Umat Beragama/ FKUB), the reason behind the Building Permit revocation of the Ahmadiyya's mosque was the Joint Decree of the Minister of Religious Affairs, the Attorney General and the Minister of Interior which banned the Ahmadiyya's activities. Through this decree, FKUB held the view that establishment of the mosque automatically should terminated.⁶¹

The eleventh case was acts of intimidation, which among others, occurred in Depok, West Java. Intimidations were committed by the Islamic Defenders Front (Front Pembela Islam/ FPI) towards the

60 The chronology of this case was discussed on a variety of media coverages, such as print, electronic, and online medias. See Fabian Januarius Kuwado (2016), "Masjid Ahmadiyah di Kendal dirusak." http://nasional.kompas.com/read/2016/05/23/11224741/masjid.ahmadiyah.di.kendal.dirusak.massa.tak.dikenal?utm_source=RD&utm_medium=inart&utm_campaign=khiprd, accessed on August 29, 2016. See also Kuwado (2016), "Sebelum Dirusak, Masjid Ahmadiyah Kendal Didatangi Lurah Melarang Pembangunan", <http://nasional.kompas.com/read/2016/05/23/12452211/sebelum.dirusak.masjid.ahmadiyah.kendal.didatangi.lurah.melarang.pembangunan>, accessed on the same date.

61 Ade Irmansyah (2016), "Dalih SKB Tiga Menteri, Pemda Kendal Cabut IMB Masjid Ahmadiyah", http://kbr.id/05-2016/dalih_skb_tiga_menteri__pemda_kendal_cabut_imb_masjid_ahmadiyah/81580.html, accessed on August 29, 2016.

Ahmadis simply by passing the road near their mosque in Depok in order to instill fear to the Ahmadis so they would not dare to use the road.

A similar act took place in East Lombok. The Ahmadiyya adherents were intimidated in the Bagik Manis village of Sambelia Sub-district in East Lombok. Ahmadis were forced to stay in Central Headquarters of District Police (Markas Polisi Resor/ Mapolres) of East Lombok for four days and were forced to make a stamped letter of agreement which stated that they were forbidden to spread their teachings.

The eleventh case was the acts of sealing of the Ahmadiyya's mosque. The government in the village of Parakansalak, Sukabumi in West Java was one of the parties who committed the act. Dadang Eka Widiyanto, the Head of Civil Service Police Unit of Sukabumi, declared the sealing of the mosque was conducted in order to prevent conflicts in the community. The basis of this act was the Regional Regulation No. 10/2015 on the Implementation of Public Order and Peaceful Society.

The thirteenth case was the rejection of the Islamic Reform Movement (Gerakan Reformis Islam/ Garis) against the Ahmadiyya community. According to the Islamic Reform Movement, the reason of such rejection was due to the obscurity of the community's citizenship. In addition, the Islamic Reform Movement considered the existence of Ahmadiyya caused disturbance to the residents in Kuningan, West Java.

Furthermore, a combined mass of a number of Islamic organizations including the Combined Initiative of the Ranks of the Siliwangi Sundanese Youth (Gabungan Inisiatif Barisan Anak Siliwangi/ Gibas), Kuningan People Front (Barisan Rakyat Kuningan/ Barak), Anti Immoral Movement (Gerakan Anti Maksiat/ Gamas), and Islamic Reform Movement (Gerakan Reformis Islam/ Garis) demanded the Regency Government of Kuningan to immediately issue a Regional Regulation to ban Ahmadiyya activities in the Regency of Kuningan. They considered the existence of Ahmadiyya had been causing disturbance to the society.

Examining the violations of the minority religious rights against the Ahmadiyya adherents throughout 2016, the adherents experienced obvious and critical vulnerabilities which were mainly due to the overwhelming violations catalysts as the following. 1) Their existence was culturally excluded from the Islamic identity, which is commonly

used by other adherents, beliefs and *mazhab* (schools of thoughts) in Islam. 2) The existence of the joint decree of the Minister of Religious Affairs, the Attorney General and the Minister of Interior which was based on MUI's fatwa. The decree restricted the Ahmadiyya activities and prohibited its religious preaches. In this case, the State was involved as a prominent actor. 3) The growing number of intolerant groups. Armed with the MUI's Fatwa and Joint Ministerial Decree, the intolerant groups often become vigilantes who negate, exclude and restrict the Ahmadiyya activities.

C. Cases against The Shia

In addition to the Ahmadiyya community as mentioned earlier, Shia Islam is also a victim of violence that have been occurring continuously for the last 7 years.

One of the peak acts of violence against Shia Islam in Indonesia is known as the case of Shia Sampang II. The case mentioned was referred to the case of August 26, 2012. It is well known that the attack on Shia Islam followers in Sampang, Madura once occurred in December 2011. That incident is known as the incident of Shia Sampang I. The exploration and analysis of the acts of violations of freedom of religion/belief in Sampang in 2011 was presented by SETARA Institute in a report of Conditions of Freedom of Religion/ Belief in 2011.⁶² Meanwhile, the Shia Sampang II case was reviewed and explored in the following year's report.⁶³ The State absence during the case of Shia Sampang I caused the tragedy to reoccur in the same context with similar actors and victims but with high escalations and severe level of terror. Shia Sampang II case was followed by series of acts of violation ranging from intimidation, assault and murder which led to the evacuation of the Shia to Sidoarjo where they remained until this day.

62 See Hasani dan Naipospos (Eds.), *Politik Diskriminasi Rezim Susilo Bambang Yudhoyono: Kondisi Kebebasan Beragama/Berkeyakinan di Indonesia 2011*, (Jakarta: SETARA Institute, 2012), page 82.

63 See Halili, and associates., *Kepemimpinan Tanpa Prakarsa: Kondisi Kebebasan Beragama dan Berkeyakinan di Indonesia Tahun 2012*, (Jakarta: Setara Institute, 2013), page 75.

After the two cases, the Shia continue to be the objects of violation towards religious rights which occur in many incidents and act dimensions. The predominant incidents and acts were rejections, dismissal of the Shia Islam's religious practice and celebration, as well as hate speeches.

In the last 5 years, the Shia were always in the top 5 positions of minority communities who became victims of violations. They became the object of violence against their religious rights in 113 acts. Moreover, last year they became the victims with the highest intensity of violations.⁶⁴

The 2016 data reconfirmed that the violations against the Shia in the last seven years were never subsided. As a religious minority in Islam, they became the objects of violation which were committed by internal Islamic groups and the State apparatus. Several predominant violations against the religious rights of the Shia in 2016 were as follows:

The first violation was misdirection. Acts of misdirection against the Shia Islam teachings among others were by the Regional police of Riau through banners that read "Shia Islam is not Islam. The Shia Islam threatens the faith and stability of the nation". The act committed by the Regional Police of Riau was inappropriate, considering the fact that they are State officials who should uphold their functions as the public protectors and servants as well as to uphold the State's function as an Institution who encompass and embrace all.

Another act of misdirection occurred in Yogyakarta committed by a society organization called the Islamic Community Forum (Forum Umat Islam/ FUI). The act of misdirection was committed by installing and spreading banners which generally contained misdirection against Shia Islam.

In addition, misdirection also occurred in West Sumatra. The act of judging internal freedom (*forum internum*) from people of different religions was committed by the alliance of mass organizations and religious mass organizations affiliated with Islam in West Sumatra. Alliance of the religious mass organizations led directly by the

⁶⁴ See Halili, *Politik Harapan Minim Pembuktian: Kondisi Kebebasan Beragama dan Berkeyakinan Tahun 2015*. (Jakarta: Setara Institue, 2016).

Chairman of Indonesian Ulama Council (Majelis Ulama Indonesia/ MUI), Gusrizal Gazahar, filed a complaint to the governor regarding the alleged Shia apostasy which according to them was a heretical sect. The mass organization representatives who filed the complaints on the charges of apostasy and heresy of Shia were, Nadhatul Ulama (NU), Muhammadiyah, Tarbiyah Islamiyah, Indonesian Association of Muslim Intellectuals (Ikatan Cendekiawan Muslim Indonesia/ ICMI), Ansor Youth Movement (Gerakan Pemuda Ansor/ GP Ansor), Aisyiah, Chinese Descent Indonesian Youth Association (Ikatan Pemuda Tionghoa Indonesia/ IPTI) and Bundo Kandung.

Previously, MUI of West Sumatra and City of Sawahlunto MUI had already informed the heresy of Shia Islam to Ali Yusuf, the Mayor of Sawahlunto City, through a documented statement called the “The Declaration of Medina”. Not only did MUI commit misdirection against Shia Islam, but it also equalized the Shia Islam illegitimation with Lesbian, Gay, Bisexual and Transgender (LGBT) as well as Drugs.

The second violation was hate speeches and threats of violence against Shia Islam which occurred in Yogyakarta committed by groups of religious mass organizations. Islamic Community Forum (Forum Umat Islam/ FUI) spread hate speech by displaying banners in various strategic areas, such as at the intersection of Pojok Beteng, Yogyakarta. Hate speech directed to the Shia in Yogyakarta by the groups of religious mass organizations was also committed through threats of violence and closure of Shia Muslim Foundation. The mass gave speeches stating that Shia Islam was not Islam and therefore should be eliminated.

Hate speeches were spread in Riau by the State University of Riau (Universitas Negeri Riau/ Unri). The University stated that they refuse to accept Shia Islam and the LGBT community discourses in the campus. The rejection was delivered by Aras Mulyadi as the State University of Riau’s rector, when conducting a discussion with Student Executive Board of Riau University (Badan Eksekutif Mahasiswa Universitas Riau/ BEM Unri) on Tuesday February 23rd 2016. The State University of Riau stigmatically equalized the Shia Islam with the LGBT community.

Such incident also occurred in Jakarta. A group of people who call themselves as the Ansharusy of Sharia Community (Jemaah Ansharusy Syari’ah/ JAS) committed an act called “Tarhib Ramadhan 1437 H” on

Car Free Day. The mass refused Shia Islam through displaying posters, condemning the Shia Islam, rejecting several of its teachings and giving speeches in the presence of the public who were enjoying the Car Free Day. In such oration, they also refused the existence of Shia Islam in Indonesia with the accusation that Shia Islam was poisonous to the young generations of Islam.

The third violation was the prohibition of scientific forums. A seminar conducted by Respect and Dialogue community (Respect and Dialogue/ READY) titled “Maintaining the Integrity of the nation through Interaction with Diversed Religion”, was forbidden by the Police due to one of its speakers who was the Shia Islam representative. The ban was absolutely unfounded and was only based on the stigmatized view regarding Shia Islam and its teachings, which were believed and practiced by the community.

The fourth violation was the religious activities dissolution and rejection. Such dissolution and rejection occurred in Bangil, Pasuruan. On April 1st 2016, a number of intolerant mass organizations attacked and ceased a religious event called *Wiladah* of Fatimah Az-Zahra the Prophet’s daughter. This event was held by Islamic Woman Center (ISWOC). The event, which was scheduled to be held at the Diponegoro building in Bangil, was eventually ceased because it was attacked by hundreds of people from the Aswaja Bangil mass organization.

Three days prior the event, approximately 25 people visited the Government of Pasuruan and demanded the *Wiladah* of the Prophet’s daughter not to be held in Bangil. Upon such pressure, the committee of the event was summoned by the Regent of Pasuruan on Thursday the 31st of March, 2016. The meeting itself was attended by the Regent, Chief of District Police (Kepala Polisi Resor/ Kapolres), Military District Commander (Komandan Distrik Militer/ Dandim), and representatives of the court. The Regent stated that the committee should not hold the event or should relocate it to the establishment of the Islamic Pesantren Foundation (Yayasan Pesantren Islam/ YAPI).⁶⁵

65 Anonymous (2016), “Kronologi Usaha Pembubaran Acara Milad Putri Rasul di Bangil Jatim”, <http://www.beritadunia.net/berita-dunia/indonesia/kronologi-usaha-pembubaran-acara-milad-putri-rasul-di-bangil-jatim>, accessed on November 29, 2016.

Moreover, there was a rejection against the celebration of Ahlul Bait Ashura Community by the intolerant groups in South Sulawesi, Makassar. The rejection was conducted by several anti-Shia leaders by pressuring the government officials and intolerant groups to publicly protest expressing the rejection.

One of the leaders conducting the rejection was Said Abdul Samad, the Chairman of Islamic Research and Studies Institute (Lembaga Penelitian dan Pengkajian Islam/ LPPI) in Makassar. He urged the Regional Office of the Ministry of Religious Affairs (Kantor Wilayah Kementerian Agama) of South Sulawesi to not provide a permit to the Shia Islam Ashura celebration in Makassar city. "We urge the South Sulawesi Regional Office of the Ministry of Religious Affairs to not provide a permit to the Shia Islam Ashura event in Makassar city," said the Ustadz (master of Islam) who is also the Chairman of the Volunteers Socialization of Fatwa MUI (Relawan Sosialisasi Fatwa MUI/ Resofa-MUI).⁶⁶ Previously, several people, who claimed as the Moslem representatives of South Sulawesi, rejected the celebration of Ashura in Makassar and they even intimidated the chairman of South Sulawesi MUI to sign the refusal letter of celebration of Ashura.

Rejection of the Ashura commemoration by hundreds of residents and some mass of Islamic organizations also took place in Kendari in Southeast Sulawesi. They ambushed the location of Ashura celebration held by Shia Islam in Kendari, at Hotel Kubra on Tuesday October 11, 2016.

The celebration of Ashura by Shia in Kendari, which was attended by approximately 100 people, was located at a hotel on Edi Sabara Street, Lahundape Village, Kendari. During their orations, the demonstrators affirmed that the Shia Islam Ashura commemoration should not be allowed to continue because according to them it was clear that Shia Islam was heretical. The mass then tried to get into the hall of the hotel where the celebration of Ashura was held. However, they were apprehended by hundreds of police officers who were

⁶⁶ Hasan Basri (2016), "Tolak Perayaan Asyura Syiah di Makassar, Resofa Surati Polda dan MUI", <http://makassar.tribunnews.com/2016/10/06/tolak-perayaan-asyura-syiah-di-makassar-resofa-surati-polda-dan-mui>, accessed on November 29, 2016.

securing the event.⁶⁷

Another rejection towards the celebration of Ashura also occurred in Semarang. The celebration of Ashura conducted by Shia Islam in the city of Semarang, Central Java on Tuesday October 11th 2016, was tarnished with actions of rejection from members of numerous of mass Islamic organizations. They demanded the celebration of the 10th Muharram which was held at Nurus Thaqalayn Mosque on Boom Lama Street of North Semarang to be cancelled.⁶⁸

The fourth violation was the acts of intolerance. Acts of intolerance occurred in Bogor by Indonesian Mujahidin Assembly (Majelis Mujahidin Indonesia/ MMI) and anti-Shia Islam organization. Based on SETARA Institute's observations, such act was committed by urging the Mayor of Bogor, Bima Aria ban Ashura, to ban the commemoration of Ashura in Bogor. If these demands had not been granted, they would have staged a bigger mass action. Act of intolerance was also committed by a group of people called "Al-Kalam" on Jalan Sudirman, Makasar. They denied the existence of Shia Islam in Makassar on the account of Shia Islam being a heretical sect.

Moreover, an act of intolerance was committed in Situbondo by the Sunni Ulema Communication Forum (Forum Komunikasi Ulama Sunni/ FOKUS) and Aswaja Nahdlatul Ulama (Aswaja NU) as well as the mass of Santris (students of Islam). Those mass organizations and santris, among others were the As Shofwah Niqobah-Situbondo Bondowoso (Alumni Association of Sayyid Muhammad Alawi al-Maliki, Makkah), Association of Students and Alumni of Sukorejo of Bondowoso Branch (Ikatan Santri dan Alumni Sukorejo/ IKSAS), Association of Alumni and Students of Sidogiri of Bondowoso Branch (Ikatan Alumni dan Santri Sidogiri/ IASS), Association of Sarang Alumni of Bondowoso Branch (Ikatan Alumni Sarang/ IAS), Tanaszaha of Bondowoso Branch (Association of Alumni and Students of Zainul Hasan Genggong/ Ikatan Alumni dan Santri Zainul Hasan

67 Kiki Andi Pati (2016), "Warga Kepung Tempat Perayaan Asyura Pengikut Syiah di Kendari" <http://regional.kompas.com/read/2016/10/11/18275911/warga.kepung.tempat.perayaan.asyura.pengikut.syiah.di.kendari>, accessed on November 29, 2016.

68 Nazar Nurdin (2016), "Massa Ormas Islam Protes Peringatan Asyura di Semarang" <http://nasional.kompas.com/read/2016/10/11/16132151/massa.ormas.islam.protes.peringatan.asyura.di.semarang>, accessed on November 20, 2016.

Genggong), Ar Ruhama (Ikatan Alumni Pesantren Sayyid Muhammad al-Maliki, Bondowoso), Majelis Wakil Cabang Nahdlatul Ulama/ MWCNU, dozens of Islamic schools and Islamic mass organizations in Bondowoso which constitute the Sunni Ulema Communication Forum (Forum Komunikasi Ulama Sunni/ FOKUS). They did a long-march in Bondowoso on Sunday (3/4/ 2016) in order to reject the Shia Islam event held in that city. Previously, FOCUS had also conducted hearings with the Regent of Bondowoso to demand the regent to foil any events conducted by Shia Islam.

The sixth violation was the coercions of belief. The coercion of belief to the Shia in a refugee camp in Sampang was committed by Sampang's Nahdlatul Ulama Branch Representative (Pengurus Cabang Nahdlatul Ulama/ PCNU) and the local government. They claimed the Shia who were evacuated could return to their hometowns on the condition that they returned to the teachings of Ahlussunah wal Jama'ah.

The seventh violation was the act of omission by the State. Such act occurred to the Shia in Sampang, who are currently living in a refugee camp in Jemundo, Regency of Sidoarjo. After living for 4 years in the refugee camp, the Shia refugees, who were the victims of violence in Sampang, Madura, have yet to receive any clarity regarding their well beings. Sukarwo, Governor of East Java, stated that he and his party had conducted negotiations, however, they still have not been able to successfully returned them to their hometowns.

The eighth violation was the discrimination against the Shia Islam committed by a member of the Regional House of Representatives (Dewan Perwakilan Rakyat Daerah/ DPRD) in East Java, who was in charge of social welfare issues. One of Regional House of Representatives in E Commission stated that hundreds of Shia were transmigrated to Jemundo, Sidoarjo and accommodated with flats in order to live independently.

The ninth violation was the threat of events dissolution against the Shia who planned to organize an event called "Islam Cinta" (Love Islam) by the Sunni Ulema Communication Forum (Forum Komunikasi Ulama Sunni/ FOKUS), Aswaja Nahdlatul Ulama (Aswaja NU) and its Santris in Situbondo. Initially, the Shia along with the Shia Islam national leaders such as Jalaluddin Rahmat and Haidar Bagir planned to hold an event titled "Islam Cinta" in the city of Bondowoso, East Java. KH Muhammad Hasan Abdul Muiz, as the scholar representative

of Ahlus Sunnah waljama'ah in Bondowoso region stated that Aswaja NU and its Bondowoso Santris were determined to foil the event held on the 5th – 6th of April 2016.

There was another act of religious activity dissolution titled “Walidah of Fatimah Azzahra the Prophet Muhammad’s daughter” organized by the Islamic Women Center (ISWOC) by hundreds of people on behalf of Mass Organization of Aswaja Bangil-Pasuruan. The event that had been carefully prepared by the committee was eventually cancelled.

The tenth violation was the rejection towards Shia Islam and its activities by the association of Islamic mass organization in Bangil. The basis of the rejection was referred to the MUI’s Fatwa, a Regional Regulation on the alert of heretical cults, Supreme Court Decree, and the Decree of Pasuruan Religious Harmony Forum (Forum Kerukunan Umat Beragama/ FKUB).

The eleventh violation was the destruction of an establishment owned by Jaid Jumati, a follower of the Ja’fariyah sect in the village of Marikurumbu, Central Ternate, North Maluku. The reason for this vandalism was because it was used for religious activities of the sect.

The eleven patterns of violations towards the rights of Shia Islam had actually escalated since 2010. The catalysts of the violence against Shia Islam were more from the non-structural horizontal levels. Structurally, the involvement of State actors in some cases was more influenced by the pressure of the intolerant groups. This catalyst was different from the catalyst of violence against the Ahmadis, where structural and non-structural/ socio-cultural factors were equally strong and had a strong inter causality, among others were caused by the Joint Decree of the Minister of Religious Affairs, the Attorney General and the Minister of Interior regarding the Ahmadiyya Muslim Community.

D. Cases Concerning The Christians

According to the research and monitoring data of the freedom of religion/ belief conducted by SETARA Institute since 2007, Christians have been the biggest regular victims of freedom of religion/ belief violations. Several high-profile cases that were committed to them among others were the case of Aceh Singkil I, case of Filadelfia Batak

Protestant Christian Church (Huria Kristen Batak Protestan/ HKBP) in Bekasi, and case of Indonesian Christian Church (Gereja Kristen Indonesia/ GKI) in Yasmin, Bogor. The peak violation towards them occurred from 2011 to 2012. However, after the incident, violations against the Christian continued to occur.

Within the past five years, they became the objects of 206 acts of freedom of religion/ belief violations. They had always been the top 5 groups of victims of freedom of religion/ belief in Indonesia. The 2016 data confirmed the symptom. The violation trend against the Christians as adherents of a legitimate religion recognized by the State has not changed much. Throughout 2016, they became victims of the following acts of violation.

The first act of violation was related to the places of worship. One of them occurred in Bandung associated with the inauguration of Karo Batak Protestant Church (Gereja Batak Karo Protestan/ GBKP). Hundreds of people in Bandung intimidated the GBKP adherents. The mass rejected the existence of non-Muslims places of worship with the general excuse of licensing issues. In fact, according to church's caretaker, the building the permit had been issued since June 20 2012. The church committee had the Building Permit (Izin Mendirikan Bangunan/ IMB) verified before the relevant authorities requested it to be verified. Therefore, the Building Permit was stated legal.

There was a case towards the rejection of the renovation of the Pasundan Christian Church in Cimuning Bekasi, West Java by a group of citizens. The Church, which is located at RT 02 RW 01 (neighbourhood and hamlets) and has been operating since May 31st 2001, was in need of renovations. CH Sianipar, one of the Protestant Christian Church (Gereja Kristen Protestan/GKP) members claimed that the renovation issue had been communicated with the Islamic religious leaders including the government. However, a group of residents held a protest when the church's renovations began.

While in Batam, there was a threat to close the Sepenuh Indonesian Bethel Church (Gereja Bethel Indonesia Sepenuh) by the property developer in the city of Batuhampar in Batam. The reason was due to the plan to build apartments on the area. The pastor of GBIS claimed the church agreed to the plan as long as the church was relocated in order to avoid the GBIS adherents from not owning a place of worship.

GBIS church in Batam was established 16 years ago and the number of adherents had reached to 150 people from many areas in Batam, among others were from the city itself and from Bengkulu area.

In addition, there was a case of the temporary closing of Karo Batak Protestant Church (Gereja Batak Karo Protestan/ GBKP) in Pasar Minggu by the Provincial Government of Jakarta in order to avoid protests from the public. The Governor of Jakarta, Basuki Tjahaja Purnama, stated that there was an error with the church's Building Permit (Izin Mendirikan Bangunan/ IMB) and suggested that the church should be temporary closed. The adherents were allowed to perform religious practices in the sub-district office building. While South Jakarta City Government declared that the church would be relocated to the local district office building for the time being.

Previously, strong objections from the civilians against the Pasar Minggu GBKP adherents urged the South Jakarta City government to relocate the church as the Building Permit was initially issued for a business establishment. On the other hand, GBKP officials stated that it had been very difficult to have the church's Building Permit issued as process of the GPKP Building Permit began ten years ago.

There was also a rejection towards the construction of Santa Clara Catholic Church by the Bekasi Islamic People's Union (Majelis Silaturahmi Umat Islam Bekasi/ MSUIB). After the Friday prayers, MSUIB surrounded the church on the grounds of the construction being an act of disobeying God which must be confronted. Allegations were directed to the church's caretaker who was accused of committing fraud and data falsification. Another allegation was directed to the church's contraction which was in accordance with the local norms.

In the city of Jambi, the HKBP church in the village of Penyengat Rendah of Jambi City was sealed by the Civil Service Police Unit (Satuan Polisi Pamong Praja/ Satpol PP). The sealing was done on the account of that the church did not own a Building Permit. The officer of Civil Service Police Unit stated that sealing of the place of worship was due to the fact that was unlicensed. Civil Service Police Unit did not intend to prohibit the church to not build a place of worship. The Head of Civil Service Police Unit of Jambi City declared that the sealing of the church was in accordance with the copy of Supreme Court Decree No. 190K/TUN/ 2013 on October 7, 2014 and considered that Reverend Lisker

Sinaga violated the law.

The second act of violation was related to the Christians' religious practices. Such act occurred in Solo. Extreme Islamic mass organizations committed an act of forced dissolution of a requiem mass to commemorate the 1000th day passing of a mother. The requiem mass was conducted by Catholic adherents and led by Father Andrew in Penumping Wonosari village, Solo. Meanwhile in Jakarta, there was an act of prohibition to conduct religious practices against Christian adherents of Karo Batak Protestant Church (Gereja Batak Karo Protestan/ GBKP) by the Government of Jakarta in Pasar Minggu on the account of disturbance of peace and tranquility.

In Bandung, there was dissolution of a Christmas Spiritual Awakening Service (Kebaktian Kebangunan Rohani/ KKR) in Bandung 2016 at Sasana Budaya Ganesha (Sabuga) building, on Taman Sari street. Dozens of people on behalf of Defenders of Ahlu Sunna (Pembela Ahlu Sunnah/ PAS) led by Muhammad Ro'in entered the main hall and disbanded the adherents who were singing hymns on stage. The reason of the dissolution was justified by Commissioner Winarno, Precinct Police Chief of Bandung City (Kepala Kepolisian Resor Kota Besar/ Kapolrestabes Bandung), on the account that the event organizer did not ask for permission to conduct the event.

The third act was extortion. Such act was committed to churches by the religious mass organization in Bandung. Based on the report submitted to the Indonesian National Human Rights Commission (Komisi Nasional Hak Asasi Manusia Republik Indonesia/ Komnas HAM RI), there was an extortion with a total of 200 million Rupiahs against Christians who wished to obtain Building Permits of places of worship. On that note, the Commission requested the government to be strict towards the intolerant groups who committed acts of extortion.⁶⁹

The fourth act was discrimination. Such act was experienced by Christians who were members of the Indonesia Christian Church (Gereja Kristen Indonesia/ GKI) in Taman Yasmin. Discrimination was committed by the local government of Bogor, as in several occasions

⁶⁹ Nanang Sutisna (2016), "Komnas HAM: Ada Pemerasan terhadap Gereja di Jawa Barat", <https://m.tempo.co/read/news/2016/06/05/058776953/komnas-ham-ada-pemerasan-terhadap-gereja-di-jawa-barat>, accessed on November 20, 2016.

they supported the intolerant groups in Bogor. Act of discrimination was also committed to SMPN 4 Junior High School in Ketipo Jaya City, District of Peranap in Indra Giri Hulu. The school principal stated that Christian students were not allowed to be in charge of reading the preamble of the 1945 Constitution during flag ceremonies in which the word “Allah” (the God of Muslims) is included. Therefore, only Muslim students were allowed to read the preamble of the 1945 Constitution during flag ceremonies.

The fifth act of violation was the act of terror against Christians. The act of terror was committed by an adherent of the St. Joseph Catholic Church on Dr. Mansur Street No. 75, Medan. A man approached Father Albert Pandiangan, pointed a knife to him and attempted to kill him. The incident caused injuries to the priest hands and it also caused uproar in the church. In East Kalimantan, petrol/bottle bombs were thrown at the Ecumenical Church on Dr. Cipto Mangunkusumo Street, Sengkotek Village, Loa Janan Sub-district in Samarinda, East Kalimantan. The explosion occurred when the church members were conducting a religious activity. The incident wounded four people, killed a 2-year-old female toddler and injured several children who were playing at the church parking lot.

Bomb terrorizing by phone occurred in the Parish of Gembala Baik Catholic Church (Gereja Katolik Paroki Gembala Baik) on Ridwan Street No. 16, Batu City. One adherent declared that his church would be bombed by a woman shouting “Allahu Akbar” over the telephone. Based on the incident, Senior Adjunct Police Commissioner (Ajun Komisaris Besar Polisi/ AKBP) Leonardus Simarmata, Chief of District Police in Batu, conducted an investigation in cooperation with Telkom.

The sixth act of violation was the coercion to wear Islamic attire (hijab) against female Christian students and to study Islam at SMPN 3 Junior High School in Pandan Wangi Peranap, Peranap Sub-district, Indragiri Hulu Regency in Riau. Based on the statement of Putri Elizabeth, she was obliged to wear a hijab and to learn Islam since her first year at SMPN 3 Junior High School. Elizabeth emphasized that it was the school’s rule and students would be reprimanded if they disobeyed it.

The seventh act of violation was the act of condoning. Act of condoning nuanced with ignorance associated with the dissolution

of the Spiritual Awakening Service (Kebaktian Kebangunan Rohani/ KKR). Ahmad Heryawan, the Governor of West Java, stated that the dissolution the Christmas Spiritual Awakening Service at the Sabuga building committed by the intolerant groups of mass of organizations called Defenders of Ahlus Sunnah (Pembela Ahlus Sunnah/ PAS) in Bandung, was merely a minor issue.

Reviewing the violations patterns stated above, the prominent conditions which occurred to the Christian minorities involved violations against the church, both its construction and renovation, and against their religious practices. Other violations can generally be categorized in the two contexts of violations.

Continuous violations are clearly pitiful because Protestants and Catholics are the two official religions recognized by the State. Thus, the two catalysts of the violations committed against them are the growing number of the intolerant groups and the State's submission towards the will and interests of the intolerant groups.

E. Cases of the Indonesian Traditional Beliefs

Local beliefs referred in this section are groups of mysticism belief adherents whose existence are largely attached to the entity of their local cultures and traditions. Constitutionally, their existence is "acknowledged" as a cultural entity. However, socio-religiously and at the level of the regulation derivatives, they often become victims of violations.

Within the research and monitoring framework on the conditions of religious minorities, SETARA Institute refers to them as "Indonesian local beliefs" inherited by their ancestors and excluded from the official religions. Since 2007/ throughout the 10 years of SETARA Institute's research and monitoring, the data have shown that the local mysticism beliefs are minority entities who often become the victim of violation. The Indonesian local mysticism beliefs which are dwindling in numbers are the objects of violations, ranging from discriminations to murders.

In 2016, there was a violation towards two Indonesian local mysticism beliefs. The first violation was the act of misdirection towards

Sapto Dharmo and Budi Luhur Teachings. The acts of misdirection against them were committed by the Ministry of Religious Affairs in Lampung province. The Ministry also committed the acts of misdirection against 28 entities of local mysticism beliefs, *mazhab* (schools of thoughts) and religious beliefs such as Shia Islam, Ahmadiyah Muslim Community, Fajar Nusantara Movement (Gerakan Fajar Nusantara/Gafatar), Baha'i, Millah Ibrahim Teachings, Sapto Dharmo, Budi Luhur Teachings and many others.

The first violation was the expulsion of Sangga Buana adherents by citizens which were accused of being heretical. The main victims of the expulsion were Prayoto (36) and his wife Nur Hayani (31) from the village of Penaruban, Subang in West Java.

F. Cases against the Groups of Local Islamic beliefs

Within the 10 years of SETARA Institute's research, acts of misdirection against religious beliefs were prominent cases of religious issues. This year, there were several cases of misdirection committed to groups of religious beliefs as the following.

The first case was the act of misdirection. In East Kalimantan, an act of misdirection occurred during the Abdul Rasyid Ame's Al-Qur'an recitation committed by residents in Bontang, East Kalimantan. The act of misdirection was due to the Abdul Ame Rasyi's recitation was different from the recitation of the mainstream group. Moreover, the act of misdirection occurred in Pangket against the Des Moga Tuhan Belief "Bapanda" which is a belief that teaches people to pray but requires them to memorize names the teachers in Pammas village, Liukang Sub-district in Pangkep. The local residents claimed to be unsettled by the teachings. The local Indonesian Ulema Council (Majelis Ulama Indonesia/ MUI) issued a fatwa (edict) against the Des Moga Tuhan Belief in 2014.

An act of misdirection also occurred against the group of "Hikmatul Iman" in Cianjur in West Java by the West Java Indonesian Ulema Council. Still in West Java an act of misdirection was also committed to the Siliwangi Panjalu Padjadjaran Community by residents led by Father Agus Sukarna in Pasir Peuteuy Village RT 3 RW 1. In East Java, an act of misdirection against by citizens against the Zikr Majlis in Krai

village, Yosowilangun Sub-district, Lumajang City, East Java. After being alleged as misdirected, numerous residents confronted the Zikr Majlis community.

The second was the coercion of beliefs. Act of coercion occurred in Jombang, towards the leader of Kahuripan Ashiroh Pesantren (Islamic boarding school), Gus Jari bin Supardi, in the village of Karang Pakis Gempol, Kabuh sub-district, Jombang. The reason of MUI to commit the coercion belief was due to the allegations of Gus Jari claiming to be Isa Habibullah Prophet. Such act was based on MUI's Fatwa number 01/ MUI/ JOM/ A-F/ II/ 2016.

The third case was the refusal of the mosque construction of the Tarekat Ibul Naqshabandiyah community by Ibul village residents, Badau sub-district, Belitung. For no apparent reason the citizens rejected the existence of the place of worship belonged to the Naqshabandiyah community.

The fourth case was criminalization. The criminalization of belief committed towards one of the citizen of Patereman Village, Modung Bangkalan sub-district, Madura named Nur Tajin (50) by the police officer. The reason was due to the fact that he claimed to be Jesus who received revelations in 2014 and 2016.

Criminalization also occurred in West Java with the arrest of one resident named Abdul Munim by the police officers due to the fact that he claimed to be a prophet. In addition to the arrest of Abdul Munim, five (5) of his followers were also arrested in Desa Waru Warge Setra Village, Karawang, West Java.

The fifth case was the hate speech. Hate speeches and threats of expulsion against the Khalifa Muslimin community were committed by the Regent of Bangka. The regent threatened to confront the heretical sects and would evict them if they still practice their belief.

The sixth case was expulsion. The Panjalu Siliwangi Padjadjaran community was expelled from Mekar Karya Village, Cariu Sub-district, Bogor. The expulsion was led by a priest named Agus Sukarna. The process of the expulsion began with a meeting attended by leaders of Pesantren and Muspika officials in the office Hall of Cariu Sub-district. The community had to leave the area on the account of it being a heretical sect.

The seventh case was the protest against the rights of religious sects to build an organization. The protest was made by the citizens against the “Hikmatul Iman” organization. The refusal was based on MUI statement that the organization had deviated from Islamic teachings and had been decreed as a sect. Rafani Achyar, secretary MUI of West Java, stated that Hikmatul Iman met the criterion of a sect because it interpreted the Koran without the use of the proper interpretation guidelines.

The eighth case was discrimination. Discrimination committed against the Tareqat Satariyah community by the Administrative Court (Pengadilan Tata Usaha/ PTUN) of Banda Aceh through the decree number: 04/ G/ 2016/ PTUN. The decree declared a temporary halt of Satariyah Tareqat community’s religious activities in Le Lhob Village, Tangan-Tangan Sub-district, Southwest Aceh. The reason behind the prohibition was due to the rejection of citizens with allegations of it being a heretical sect.

The ninth case was the arson of a meditation establishment (padepokan) of Sheikh Sangga Bintang Pratama by a large group of people at Desa Waru Madaisari Village, Tegal Waru, Regency of Karawang. The group of people burnt the *padepokan* (place to meditate) because the community was accused of spreading heretical teachings.

The tenth case was the prohibition against the Taj’ul Khalwatiyah community. This community was under the care of Sheikh Yusun in Dusun Tamapalalo, Tamatto Bulukumba Village, South Sulawesi, under the supervision of Ministry of Religious Affairs of Bulukumba Regency. The community was alleged of committing spreading heretical teachings.

G. General Reflections of the Religious Minorities Conditions

Violations towards the religious minorities in Indonesia show that the relation between the majority rules and minority rights are still in a serious state. The leadership of the majority in the state of Indonesian democracy has not yet guarantee adequate protection towards the rights of minorities, especially the religious minorities.

The reality of the large number violations towards the rights of the minorities is caused by several factors as follows: The first factor is the strengthening of radical religious and intolerant groups. The actions committed by the radical groups were in forms of sweeping, prohibition of religious practices against other religious groups and other intolerant actions. These are indicators of the poor condition in freedom of religion and belief. The radical groups' movement in Indonesia is considered more dangerous compared to groups of other countries because of the high intensity of diversity and also the fact that many Muslims are easily influenced by acts of intolerance.⁷⁰

In fact the existence of these groups has led to critical religious life. The existence of the radical groups will gradually be the trigger of violation if such phenomenon is met with the community's poor literacy. The Head of Legal and International Cooperation Bureau of Ministry of Religious Affairs (Kepala Biro Hukum dan Kerjasama Luar Negeri Kementerian Agama) states that the freedom of religion or belief guarantee in Indonesia is at a critical point. The causes are allegedly the poor diversity consolidation by the State as well as political groups who exploit religious issues. As a result, people cannot distinguish between the realm of pure politics and the domain of religion.⁷¹

The second factor is the unsupportive legislations towards the guarantee of the minorities' protection. Deputy Director II of Media and Public Trust Attorney General (Kepala Sub Direktorat II Media dan Kepercayaan Masyarakat Kejaksaan Agung RI) stated that the freedom of religion/ belief in Indonesia had been guaranteed in the 1945 Constitution for all citizens, including the minorities.⁷² However, the management of harmony or religious freedom in Indonesia is still confronted with the existence of laws that provide flexibility to the intolerant groups. Regulations are provided on behalf of the freedom of

70 Interview between SETARA Institute's researcher with KH. Yahya Cholil Staquf Katib 'Aam of PBNU 2015-2020 on December 17th 2016.

71 Interview between SETARA Institute's researcher with Prof. DR. Ahmad Gunarto, Head of Legal and International Cooperation Bureau of Ministry of Religious Affairs on December 19th 2016.

72 Interview between SETARA Institute's researcher with Bagus, S.H., Head of Sub Directory II on Media and Local Beliefs of Indonesian Attorney General's Office on December 28, 2016.

expression to organizations refuting Pancasila which are still allowed to exist. To overcome the issue, Laws are required to prevent or dismiss the existence of groups that undermine Pancasila and are anti - Republic of Indonesia (Negara Kesatuan Negara Indonesia/ NKRI).⁷³

The third factor is poor awareness of the society diversity that was caused by the communities' poor literacy. The poor critical literacy experienced by civilians made television and online media to become the platforms to undermine the awareness of the diversity.

In fact, television platform is dominated by intolerant groups. Each day, TV programs provide more space for the increasingly intolerant religious leaders or public figures. This includes TV soap operas or religious activities programs regarding specific religions. Therefore, the government should be the antithesis to the domination of intolerance in media, certainly not through censorships or coercions as in the past. TV is an important strategic platform, compared to newspapers or other media. It is quite simple for the intolerant groups to spread hate. They can simply post pictures and make quotes, without verifying the information, whether or not they are hoax.⁷⁴

The fourth factor is the non united majority. Have repressions against religious minorities always been done by the majority? Of course not! Violations committed by the intolerant groups which claimed to represent the majority happened in most of the cases mentioned above. The intolerant groups received justification from the ignorance of the majority (silent majority). Democratic Majority applies the non solid rules to guarantee and protect the rights of minorities.

The fifth factor is the submission of State apparatus to the will and interests of the intolerant groups which seemed to represent the majority. What recently appears in various cases of violations against religious minority rights is the submission to the will and economy and political interests of the intolerant groups of State officials from

73 Interview between SETARA Institute's researcher with KH. Yahya Cholil Staquf Katib 'Aam PBNU 2015-2020 on Desember 17, 2016.

74 Statement of Yendra Budiana, Spokesperson of Indonesian Ahmadiyya Community (Jemaat Ahmadiyyah Indonesia/JAI), in Focus Group Discussion of Experts on Freedom of Religion/ Belief held by SETARA Institute, on December 21, 2016, at Hotel Sofyan-Betawi Jakarta on December 21, 2016.

the highest rank to the lowest (Indonesian Nasional Army/ Tentara Nasional Indonesia -TNI, Police, Civil Service Police Unit/ Satuan Polisi Pamong Praja -Satpol PP). For example, various revocations of the Building Permits of the Ahmadiyya mosques and Christian churches increase the tendency of the government to submit to the intolerant groups.

The fifth factor is weak enforcement of the law. The criminalization towards the victims of violations minorities is a real portrait of the weak enforcement of the law. In such context, it is worth mentioning that the judicial process of Basuki Tjahaja Purnama (Ahok) on charges of defamation of religion was intended to provide justice to a specific political crowd (political trial by the mob) in the actions of 411 and 212.

In such situations, SETARA Institute noted several relatively appropriate proposals to create better situations in protecting religious minorities, among others are:

1. Optimizing the role of teachers at all levels of education from Early Childhood Education (Pendidikan Anak Usia Dini/ PAUD) to University. Teachers must be opened minded and tolerant. Teachers are those who do not think fractionally or partially towards sects or who no longer think or act in the context of nationality. The evidence suggests the widespread of intolerance occurred at all levels of education from early childhood to university. Inclusive education institutions should implement the education on the obligation to protect the minorities
2. Increasing the performance of the police. On several occasions the police have played contributive roles. However, due to the uniformity attitudes in the institution, in several incidents the police often appeared to be anxious when confronted with the intolerant groups.
3. Enforcing firm and fair law to those who committed crimes in various forms and their articulations which restrict and discriminate religious minorities.
4. Taking over the public platforms, especially the television, social media, and online media platforms from the intolerant

groups.⁷⁵

5. Strengthening equal dialogues among religious groups/beliefs. In Indonesia and in several other countries, dialogues among religious groups are not equal balanced between the majorities with the minorities. Minorities that they need more rooms for dialogues than the majority. Minorities feel threatened and hope that through the dialogues the opposite party is willing to be more tolerant. Meanwhile, the majority will tend to suspect that the minorities are only interested conducting dialogues with the purpose of making the dialogues as means to soften the attitudes of the majority.⁷⁶ Therefore, establishing regular dialogues is an important agenda to limit the space of the intolerant groups who are often present in public spaces and claim to represent the majority wishes and aspirations.[]

⁷⁵ *Ibid.*

⁷⁶ Olaf Herbert Schumman, and associates., *Agama dalam Dialog: Pencerahan, Perdamaian, dan Masa Depan (Punjung Tulis 60 Tahun Prof. Dr. Olaf Herbert Schuman.* (Jakarta: Indonesian Supreme Audit Institution, 1999), page 28.



CHAPTER IV

New Religious Movements and Their Treatments in Indonesia

A. Background

In this chapter SETARA Institute will pay special attention to the discussion on how the state treats New Religious Movement/ NRM developed in Indonesia. Several groups of New Religious Movements emerged In the last few decades. The latest movement which always draws the public attention is Fajar Nusantara Movement (Gerakan Fajar Nusantara/ Gafatar) or Abraham Millah (Millah Ibrahim). Institutionally, Gafatar organization has disbanded itself but former Gafatar members are still experiencing various violations of citizen constitutional rights to this day.

As a religious minority, New Religious Movements are victims of discrimination and violations of citizen constitutional rights in their various basic rights. A situation which prompted SETARA Institute to specifically review who they are and how the State as the duty bearer treats them as the rights holder. Within 10 years, the research and monitoring of freedom of religion/ belief data of SETARA Institute grouped them in religious beliefs. As reviewed in previous chapters, starting this year SETARA Institute pays special attention to the religious minorities. This chapter is an integrated part of the portrait on conditions of religious minorities in Indonesia which were described in Chapter III.

Before reviewing how the treatment of the State towards religious minorities, SETARA Institute is interested in providing a brief epistemological study on the *episteme* of how New Religious Movements was formed and developed, who they are and why they were formed. On one hand It is deemed necessary to educate the public that New Religious Movements in the world are prevalent phenomenon that need not and should not be viewed as stigmatized. On the other hand, it is necessary to urge the State along with its apparatus structure to take sufficient actions to ensure their existential rights as a religious minorities and citizens.

In the report of freedom of religion/ belief and religious minorities in Indonesia, SETARA Institute particularly discussed the phenomena of New Religious Movements represented by Millah Ibrahim/ Millah Abraham group which then became Fajar Nusantara Movement (Gerakan Fajar Nusantara/ Gafatar) as well as the Salamullah teachings led by Lia Aminudin.

B. Epistemology of New Religious Movements in Indonesia

The phenomenon of the rise of New Religious Movements or in the study of religions in the West, in The United States as well as in Japan the so called New Religious Movement is not something new. In America, for example, since the adoption of the 1965 Immigration Act and its renewal in the year 1990 there were as many as 836 groups of New Religious Movement.⁷⁷ As an academic study, New Religious Movement first appeared in Japan.⁷⁸ The emergence of New Religious Movements in many countries is often linked closely to the crisis phenomena, including chaotic transitions and the loss of figures who could be role models. The founders of new religion will declare themselves as the “Messiahs” or the impartial queens who will offer a better world order.

The phenomenon in Japan, for example, New Religious Movements

77 J. Gordon Melton. ” *Perspective New New Religions; Revisiting a Concept*” Nova Religio: The Journal of Alternative and Emergent Religions, Vol. 10, No. 4. Published by: University of California Press, 1997, pages 103-112.

78 Introvigne, Massimo (June 15, 2001). “The Future of Religion and the Future of New Religions”. Quoted from Wikipedia on 21/12/2016.

were born as a result of, or perhaps in response to the chaotic crisis of World War I and II. New Religious Movements are basically referred to the term used for a religious belief or an ethical and spiritual movement or used for a new philosophy and is not part of the religious belief or an established religious institution. Coney, J. (1998) mentioned that New Religious Movements consisted of a range of movements ranging from a flexible affiliation based on new approaches to spirituality or religion to the efforts of communitarians demanding a fairly large group conformity and social identity that separate the believer from the general community.⁷⁹

The term of New Religious Movement was introduced by Shin Shukyo in the 1970s it is widely used by Western scholars to replace the old term of “cult”.⁸⁰ The use of the New Religious Movements term or NRM was meant to soften the term cult emerged in the debate about the cult which often received stigma and reckless insulting connotations by public and even by the academic critics to insult the beliefs whose teachings are considered strange, heretical or astray from the mainstream religions.

In the Indonesian context, the phenomenon of New Religious Movements had occurred long before the independence of Indonesia. One movement which appeared and provoked confrontations was when Muhammad Subuh founded a movement which at that time was known as the sect of “Subud” or Susila Budhi Dharma, in 1933. Later in the 1950s Subud movement spread to the West. This doctrine taught its followers that they could draw themselves closer to God through singing, dancing, shouting, laughing, and feeling excitements in various forms.⁸¹

Given the basic character of the Indonesian people as a religious community with various religious expressions, hence those religious expressions derived from the result of syncretism between the dominant

79 Coney, J. “A response to Religious Liberty in Western Europe by Massimo Introvigne” ISKON Communications Journal, 1998.

80 J. Gordon Melton, op.cit., page 74.

81 Murray Rubinstein, “New Religion Movement (NRM)”. The History of Article, 2016, quoted on 21/12/16.

religion and its local religion formed a new synthesis, will potentially grow and develop in the native land into New Religious Movements such as well Subud, Pangestu, Sumarah, Sapta Dharma sects and so forth.

The problem is how will the State respond and address to these existence of the rise of the New Religious Movements phenomena with the principles of multiple citizenship and human rights? In the perspective of human rights, the acts which portrayed the State's treatments towards them are categorized as violations of human rights.

C. New religious Movements in Indonesia

The oldest futurologist John Naisbitt and his wife Patricia Aburdene in "Megatrends 2000", as well as Alvin Toffler in The Third Wave, around the 1990s foresaw a prominent feature of the 21st century as the revival of spirituality.⁸² The rise of many New Religious Movements lately has been in accordance with the prediction by the above futurologists. The thirst for spirituality amongst the urban middle class (although not everyone) is allegedly the contributing factor. Together they searched to find a cure to their thirst for spirituality. The fulfillment of such spirituality is expressed in many ways. Among others are in forms of meditating, wandering in the wilderness or on a desert island, and seeking comfort and self tranquility away the bustle of the world. Moreover, it can be in a form of movement expressions which potentially provoke criminal acts, such as mass suicide and the expressions of sexual acts in order to receive the divine grace.

In those arid spiritual conditions, at most time, provided a great rising opportunity of new religious movements which had a common denominator as described by J. Gordon Melton as:

"New religious movements disagree significantly with the dominant accepted religious beliefs/practices in any given cultural setting and/or engage in one or more of a range of activities unacceptable to religious and/or secular authorities,

82 John Naisbitt & Patricia Aburdene (1993). *Mega Trend 2000*". Jakarta: PT. Gramedia Pustaka Utama. See also Alvin Toffler's "Gelombang Ketiga" on the 21st century sociology prediction.

such as violence, illegal behavior, high pressure proselytism, unconventional sexual contacts, or minority medical practices”.

To illustrate, A few years ago the afterlife sect in Indonesia taught mass suicidal rituals as what had happened in Bandung. In 1994 and 1995 for example, the Sinrikrio Aum sect in Japan under the leadership of Shoko Ashahara made a sarin gas attack at the Tokyo subway lines on behalf of the movement of expression. Another example was The “People Temple” movement in America. Among others were Noah’s Ark, Dark Energy, America Land of the Pure, Heaven’s Gate, Temple of Mata Hari, Demi Mission, Established King, The Seeker, Concerned Christians, Ellohim City and many others. They were very exclusive and had many predictions of impending apocalypse and promises of heaven and they also caused the anxiety about the end of the world. Such New Religious Movements are often referred to as “New Age” or the new century.

However, none of these New Religious Movements expressed their movements as social criticisms, including the critics of the mainstream religion by building a new community which they considered to be better and more ideal than the existing circumstances in their surroundings. They built an exclusive community through movements of agricultural economics due to the fact that they believed the State had failed to meet the basic needs of society. They promised movements of freedom in the sense of “liberation” from the multidimensional crisis and they promised a “Messiah” towards a society who already been covered with sins.

Fajar Nusantara movement (Gerakan Fajar Nusantara/ Gafatar) in Indonesia is one of the “New Religious Movement” in an explicit form. Under the spiritual teachings of Millah Ibrahim, they performed praxis movements and criticism against the dominant religion. They promised to help the motherland from its grief and sadness towards the deterioration in various sectors of life.⁸³ Statements such as the earth is fertile but the people are suffering from the threat of food deprivation, become the background of the rise of this movement. Gafatar like other New Religious Movements also tried to go beyond the dominant

83 Mahful T Tumanurung, and associates. (2016). *“Buku Putih Materi Pembelaan”*, (Jakarta: Unpublished and is only for particular communities).

models of reflections. They offered a new serenity which would continue to radiate. Those who were derived from different beliefs and religions could be united in silence. Finally, Gafatar under the banner the philosophical of Millah Abraham built a community movement called Fajar Nusantara movement (Gerakan Fajar Nusantara/ Gafatar) to address problems of damages and degradation of the universe.

Ari Ganjar, a sociologist at the Faculty of Social and Political Sciences, in the University of Padjadjaran classified Gafatar as a New Religious Movement.⁸⁴ Ari Ganjar confirmed that Gafatar was a phenomenon of New Religious Movements as occurred in United States and in many other countries. Often when they began to proclaim themselves and the movement, they immediately received rejections or even intimidations and acts of expulsion from the dominant group. To respond to the intimidations from mainstream groups and even the pressure from the law enforcement officers a lot of them preferred to commit suicides rather than to be subjected to the oppression of the mainstream religion.

According to the Article of Association (Anggaran Dasar dan Anggaran Dasar Rumah Tangga/ AD/ ART) research, the manual training and the White Paper on Defense Material and brochures issued by Gafatar, they called themselves as a purely social movement with a strategy to build food security through agriculture and other business sectors. Although according to some findings found by some police officers, supposedly there were several documents that led to the massive and structured mass movements similar to the managements of a State. According to Mahful T. Tumanurung, Chairman of Gafatar, when the research and monitoring team of SETARA Institute accompanied him in a meeting with the Junior Attorney for Intelligence Affairs (Jaksa Agung Muda Bidang Intelijen/ Jamintel) of the Attorney General's office, they refused if their group was categorized as a religious or political movement. According to them, Gafatar was a pure social movement whose adherents were from any places and did not have any ethnical backgrounds or were not from a specific religion. Mahful also added:

“We do not teach the teachings of a particular religion, issues of

⁸⁴ Ari Ganjar. (2016) in the discussion on “Gafatar, *Gerakan Keagamaan Atau Politik?*” Conducted On Braga Street, Bandung, Friday, January 29, 2016.

religion are of private domains. We are gathered because we have the same awareness that the world, especially in Indonesia will experience certain food crisis. We farm in Kalimantan (rice, corn, livestock and fisheries) and nothing else.

He added that such claim could be proven and witnessed that Gafatar did not conduct any military exercises or build places of worship of a particular religion in Mempawah, Kalimantan. However, Gafatar focused more on the agricultural activity in the effort to handle the predictions of food crisis.

“We are not an assembly of intellectuals who can create modern and sophisticated agricultural technology. Our staple food is rice, so we only do work in the fields and plant rice...”⁸⁵

Unlike Gafatar, the Salamullah movement appeared in 1970s which then reappeared in the 2000s. Salamullah movement was founded by Lia Aminudin better known as Lia Eden. Lia Aminudin movement was a messianic spirituality movement. Salamullah was also formed from issues which were extremely spiritual. During an in-depth interview, Lia, who was a former florist, stated that she was visited by the Archangel Gabriel and he conveyed a revelation to her after praying Tahajjud.

Her dramatic story was similar to the experience of the Prophet Muhammad after receiving revelations. On the night of October 27, 1995, Lia’s whole body was shivering profusely. She thought there was a kind of ghostly like entity who accompanied her at that moment. In addition to the experience in October 1995, Lia claimed that she had received cosmic messages since 1974. Lia also claimed to see a kind of luminous object which approached her when she was sitting in her front yard. The luminous object which was similar to a tiny yellowish golden ball was then regarded as a figure of the Archangel Gabriel.

After the mysterious revelation, Lia admitted experiencing mysterious occurrences. Suddenly, Lia was able to cure diseases suffered

85 Presented by Mahful Tumanurung and seven ex-members of Gafatar who were invited to the discussion with Junior Attorney for Intelligence Affairs (Jaksa Agung Muda Bidang Intelijen/ Jamintel) of the Attorney General’s office in mid-July 2016 to Sudarto, a researcher of SETARA Institute. The discussion led to archive of Gafatar.

by people who came to her. One public figure whom she cured was WS Rendra.⁸⁶ Remedy used was simply water from a natural spring, where she first saw the glowing ball a few years earlier. The spring, which helped curing various diseases, was not deep of only 5-6 meters in depth. The auspicious place was later named Salamullah which became the name used to address Lia's adherents. Lia self-proclaimed as *Imam Mahdi* after being appointed by Gabriel on August 18, 1998. Lia's shrewd and famous phrase frequently mentioned in discussions about Islam was "her destiny as an *Imam Mahdi*".

As previously mentioned, the phenomena of Gafatar and Salamullah as the "New Religious Movements" were actually not new phenomena. In many countries, such as America as well as Asian and European countries, New Religious movements often do not declare themselves because they will always be rejected from their main religions. Similarly, Gafatar and Salamullah also experienced rejections from their main religions and were even criminalized by the law enforcements.

What happened to Gafatar and Salamullah actually occurred in developed countries such as the United States and the United Kingdom. To mention some examples were the Yoga traditions developed by Happy Holy Organization, the International Sivananda Yoga and Vedanta Society. Another example was the Maharishi Mahesh Yoga whose one of its members was The Beatles. Maharishi offered what is known as transcendental meditation which was popular in 1975 joined by half a million members of the New Religious Movements.⁸⁷ Similar to Gafatar, through spiritual teachings and philosophy of "Millah Ibrahim", within a short time claimed to have 50,000 followers.

The distinguishing characteristic of New Religious Movements in general is that they have the tendency to break out of the established religious doctrine. They are organs which separated themselves from the "traditional religion" organization. For example, members of a

⁸⁶ GATRA Interview with Rahman, A religious leader of Salamullah movement, on 11/6/2015 re-quoted from Resensiakhir zaman.blogspot.com/...eden-pemimpin-aliran-salamullah.html, accessed on 2nd Januari 2017.

⁸⁷ Thomas Robbins, "Perspective New Religions and Alternative Religions". Nova Religio: The Journal of Alternative and Emergent Religions, Vol. 8, No. 3, 2005, page 105.

sect in America rejected the church claims to control the grace of God through the sacraments instead they emphasized the religious values of everyday life and personal relationships. They often attacked doctrines and dominant religious organizations.

Similar to New Religious Movements in many countries in the world, Fajar Nusantara Movement (Gerakan Fajar Nusantara/ Gafatar) and Lia Eden can be seen in three characteristics of a typical cult movement through these processes. The first process is psychopathology. The cult of this kind illustrates that mental illness can free individuals from the conventional understanding and allows the birth of creativity. The second process is entrepreneurial cult. The cult of this type is not different from a business, which is created by individuals who have the sharpness to detect religious desires of most people. The third process is the subculture-evolution. Hamilton, quoting Stark and Bainbridge, also referred to this kind as a religious cult. The fourth process, the most typical type of this group is the "interfaith spirituality". They were able to transcend barriers of faith. They are the para-religious movements in a world that has a strong individualistic grip. This is similar to a new vigorous spirituality.⁸⁸

Thomas Luckmann (1967: 113) confirmed a New Religious Movement as a model of "invisible religion", whose general characteristic offers themes of individual autonomy, self-expression, ethos of mobility, sexuality and familism, as well as a number of other topics. They claim some status to be "sacred" in modern culture but not explicitly regulated by religious traditions.

D. The State's Treatments towards the New Religious Movements

In the issues of New Religious Movements, freedom of religion and belief in the context of Indonesia is faced with a policy that overlaps

88 See Peter L. Berger dan Thomas Luckmann, *Sosial Construction of Reality* (Garden City New York: Doubleday, 1967), page 13. See also Daniel G. Hill, "*Study of Mind Development Groups, Sects and Cults in Ontario*. A Report to Ontario Government, 1980. See also Paul Kaihla and Ross Laver, *Savage Messiah: The Shocking Story of Cult Leader RochThériault and the Women who Loved Him* (Toronto: Seal, 1993).

between the ongoing enactment of legislation desecration or defamation of religion and the strong constitution guarantee to freedom of religion as an integral part of human rights. Discursions on the desecration or defamation of religion often overstep the mandate of the Constitution, especially Article 29 Paragraph (2) of the 1945 Constitution.

Society and law enforcement officials in general seem to find it difficult to differentiate between issues of desecration or defamation of religion and different religious understandings from the mainstream religion. As a result, whenever there are groups of new religions and beliefs which are different from the mainstream religion, they are considered to defame a criminalized religion.

In an interview with the Head of Sub Directory II of Junior Attorney for Intelligence Affairs, for example, this state official repeatedly stated “Freedom is guaranteed by the constitution, but is also limited by Article 28J of the 1945 Constitution. Similarly, tolerance should be built but people cannot tolerate matters of theology.”⁸⁹ This shows numerous law enforcement officers who often use the arguments and references of the mainstream religion/ belief to response to religious groups/ different beliefs with the dominant groups.

Ultimately, in addressing issues of freedom of religion/ belief against groups of New Religious Movements, there is a justification that they are new religious sects which deviate from the basic religious ideas and principal teachings, as described in the Act No. 1/ PNPS/ 1965. Such justification then makes them to be easily criminalized.

Associated with phenomena of the rise of a new religion, the Government seemed to be unprepared. Head of Research and Education Centre of Ministry of Religious Affairs, Prof. Atho’Muzhar, in the preface of his book on the actual religious sects in Indonesia, for example, he defensively categorized groups of beliefs. Atho’ divided the groups of beliefs into two categories. The first category is mysticism belief which deviates from the principal teachings of a religion. The second category is the religious sect that does not deviate from the

⁸⁹ Interview between SETARA Institute researcher with Bagus, S.H., Head of Sub Directory II on Media and Local Beliefs of Indonesian Attorney General’s Office on the 28th Desember 2016.

principal teachings and faith of a religion.⁹⁰

Accordingly, as a State which has a pluralistic character with a variety of religious expressions, the State through its apparatus will only respond to the differences of religious expressions which negatively impact the society's co-existence. Restrictions could only be done as mandated by Article 28J of the 1945 Constitution. Unfortunately, many of the authorized state apparatus are still using the old paradigm in understanding the dynamics of differences of religion/ belief. Eventually, they would hit a dead end, and then deploy a sacred weapon "In order to maintain harmony and order" in the frame of political harmonization (harmonizing politics).

According to this, the State seems to be building a "vague bridge" in linking the "irregularities" with the legality of conviction restriction in the name of "public order". Law on defamation of religion presupposes government in one way or another to have the ability and authority to decide whether or not a religion or belief is heretical. With an excuse that the State will not intervene with society's religion and belief, therefore, the methods to determine whether or not a belief is heretical are as follows:

First, the government refers to the opinions of both local and international Islamic institutions, especially the Indonesian Ulema Council (Majelis Ulama Indonesia/ MUI) which is regarded as the representative of Muslims. MUI with its limited competence towards the development of a new religion then invites groups of different beliefs to conduct ceremonial discourses.

Second, the continuation of MUI's discourse then verifies deviation or heresy in the perspective of MUI against such groups of society's beliefs.⁹¹ This was precisely what happened in the case of Gafatar that was commonly discussed in early 2016.

90 Bashori A. Hakim (Ed.). (2010). *Direktori Aliran, Faham Keagamaan di Indonesia*. (Jakarta: Agency for Research and Development and Training Ministry of Religious Affairs of the Republic of Indonesia).

91 *Laporan Tahunan Kehidupan Beragama di Indonesia Tahun 2008*. Yogyakarta: Center For Religious and Cross-cultural Studies (CRCS) of Gajah Mada University.

Thirdly, referring to the results of the MUI verification, the government through their watchdog agency, which is the Mystical Belief Supervisory Coordinating Board (Bakorpakem) determined that a mysticism belief had deviated from the principal teachings of a religion and eventually the perpetrators will be charged with desecration/defamation of religion.

Relating to the State treatments towards Gafatar as well as Lia Eden for example, through the monitoring of SETARA Institute, it can be concluded that the government tends to overly respond to both cases. According to the government and relevant authorities, the case of groups of religions or beliefs is different from the mainstream religion and is considered as the number one threat. Therefore, they should be alert. State acts in addressing Gafatar and Lia Eden or a group of New Religious Movements often have broad impacts on the victims' vast afflictions. This section will briefly describe the forms of State treatments towards Gafatar and the Salamullah movement.

Treatments towards Gafatar were outstandingly massive. People or administrators as well as followers of Gafatar were treated as outcasts by groups of people and by the State. Treatments towards the administrators and followers of Gafatar were clearly forms of human rights abandonments. State and society's chronological treatments towards Gafatar can be ordered as follows:

First, in 2001 Mushaddeq or Abdussalam Ahmad founded a group of belief known as al- Qiyadah Islamiyah which later became Millah Abraham. In 2007, al- Qiyadah Islamiyah received negative responses from public and was accused of being a deviant sect and of heretical. The first case occurred in the city of Padang with the arrest of Dedi Priadi and his son Gerry. After series of trial process, Ahmad Mushaddeq was arrested and sentenced by the South Jakarta District Court for violating the Article of defamation of religion (Article 156a of the Criminal Code).

Second, on August 14, 2014, the adherents of Millah Abraham founded an organization called Fajar Nusantara Movement (Gerakan Fajar Nusantara/ Gafatar). Gafatar's vision is the realization of the public, nation and State lives which are peaceful, civilized, fair and dignified under the auspices of the Almighty God through the union of the noble values of the nation, improvements of the quality of science

and intellectuality, as well as the understanding and practice of universal values in order to become the grace to the world. Gafatar's missions are to strengthen solidarity, togetherness, unity, and integrity especially among Indonesian State elements and the world in general, and to foster mutual understanding and cooperation among organizations that have concerns for and attention to world peace and prosperity.⁹²

Real actions of Gafatar covers the social, cultural, scientific and environmental aspects, such as nationality dialogues and seminars, celebration of national holidays, social services, mutual cooperation, free health checks, blood donations, planting trees, cleaning up rivers to prevent flooding, organic farming to provide natural and healthy food, and other positive activities. However, several acts of Gafatar did not run smoothly and were always under pressure and opposed by the religious majority and the local government. This was due to the fact that most members of Gafatar had beliefs which were in accordance to Millah Abraham and was regarded as a cult because it implemented the values of the universal truth from three holy books such as the Torah, the Gospel and the Qur'an.

Third, from 2012 to 2015, Gafatar failed to obtain its Registration Certificate (Surat Keterangan Terdaftar/ SKT) from the Ministry of Interior for various reasons. Finally in August 2015, the organization disbanded itself. In the absence of Gafatar, automatically social activities could no longer be conducted. To continue its mission to integrate with nature, Gafatar's only program that can be conducted was organic farming.

Fourth, after Gafatar was dissolved, the followers of Millah Abraham agreed to form a group of farmers/ organic agriculture community on the island of West, East and Central Kalimantan which was named "*Negeri Karunia Tuhan Semesta Alam Nusantara*" by adherents of former members of Gafatar. To build the farm, Gafatar chose the island of Kalimantan due to the low cost and wide space of the land as well as the positive acceptance of the local residents.

Fifth, this group of farmers/ organic agriculture community did not last long. On January 19th, 2016, a group of people who claimed as the local residents attacked and burned former members of Gafatar's

92 Articles of Association Fajar Nusantara Movement.

settlements in two residential areas in Moton Asam village, Antibar Village, East Mempawah, Mempawah in West Kalimantan and *Suap* village, *Pasir* village, *Mempawah Hilir* in West Kalimantan. They burned down, destroyed and raided all Gafatar's assets, as well as expelled the adherents of Millah Abraham out of local residents' land. Unfortunately, the violence and the attacks were not followed by the protection from the government and law enforcement officers. On the contrary, the government issued a policy to return all followers of Millah Abraham in West and East Kalimantan to their respective hometowns, without the process of dialogue and approval from Gafatar.

In addition, post eviction of the followers of Gafatar, police restrained three followers of Millah Abraham and charged them with the Article of defamation of religion and treason. In the end, the will of Gafatar to build our beloved country through agricultural programs were assessed by the government as acts of treason, even though their programs were not related to any political agendas or any separatist movements or terrorism to overthrow power.

Sixth, the former members of Gafatar and or adherents of Millah Abraham both were criminally charged for defamation of religion with the use of the Criminal Code Article 156a Law No. 1/ PNPS/ 1965. In the periods of 2007-2016 Millah Abraham's adherents who were charged for violation of Article 156a of the Criminal Code are as the following : in 2007, Ahmad Mushaddeq was indicted by the District Court of South Jakarta and was imprisoned for 4 years. In 2008, the District Court of Padang sentenced 2 followers of Al-Qiyadah Al-Islamiya/ Millah Abraham to 3 years of prison. Then in June 2008, the District Court of Makassar convicted 21 adherents of Al-Qiyadah Al-Islamiya/ Millah Abraham. In 2015, 6 members of Gafatar in Aceh were sentenced to 4 years of imprisonment by the District Court of Aceh. Furthermore, on May 5th, 2016, 3 adherents of Millah Abraham namely Ahmad Mushaddeq, Mahful Muis Tumanurung and Andry Cahya were arrested and are currently undergoing trials.

Throughout the monitoring of the Gafatar phenomena, SETARA Institute found asystematic and structural patterns of violations, starting from law enforcement officials who disregarded the issues of missing people in several regions in Indonesia. Junaidi, Chairman of the Union of Journalists for Diversity (Serikat Jurnalis untuk Keberagaman/ *Sejuk*), claimed that media played an important role in

these issues. The massively reported news was regarding the case of dr. Rica in Yogyakarta. The news appeared to be sexist due to the sentence of “Dokter cantik hilang....” (“A beautiful doctor is missing....”).⁹³ The disappearance of several people intrigued condoning acts by State officials and/ or public figures. The first condoning act which involved a heretical stigma was mentioned by the DI Yogyakarta Police Chief, Brigadier General Erwin Triwanto, who stated that on Monday January 11th, 2016 dr. Rica allegedly was recruited by the Gafatar organization which currently renamed as *Negara Karunia Tuhan Semesta Alam* (NKSA). The disappearance of dr. Rica was associated with the prohibited organization and heretical sect in Boyolali. After the news became widely spread, followed by the condoning act or stigmatized statement by the Minister of Internal Affairs Tjahjo Kumolo who stated that Gafatar was the prohibited organization behind the missing people.

Similarly, after the Gafatar adherents were expelled from Mempawah, West Kalimantan, condoning acts were still committed by State officials, such as, Vice President Jusuf Kalla. The Vice President suggested the followers of Gafatar to no longer worship a heretical sect and should be guided by religious leaders. The Vice President’s statement was in relation of the growing cases of misdirection and expulsion towards members and administrators of Fajar Nusantara Movement (Gerakan Fajar Nusantara/ Gafatar) that occurred in many areas in Indonesia especially in Mempawah, West Kalimantan.

Condoning acts committed by State officials and public figures, were responded with misguided fatwas towards Fajar Nusantara Movements (Gerakan Fajar Nusantara/ Gafatar) by the Central Indonesian Ulema Council (Majelis Ulama Indonesia/ MUI) through letter number: 06/ MUI/ 2016 on Doctrines of Gafatar. In the case of Gafatar, some leaders of the Regional MUI had previously declared Gafatar as a heretical sect, especially after the burning of settlements and asset of former Gafatar’s members and administrators. One of MUI’s regional administrators who declared Gafatar as a heretical sect was, Consultative Council of

93 Statements delivered by the Chairman of Sejuk in focus thematic discussions held by Indonesian Legal Aid and Human Rights Association (Perhimpunan Bantuan Hukum dan Hak Asasi Manusia Indonesia/ PBHI) on December 14, 2016. The statement was also delivered in a discussion on how the media framed cases of Gafatar organized by Jakarta Legal Aid Institute (Lembaga Bantuan Hukum/ LBH) on February 12, 2016.

Ulema (Majelis Pemusyawaratan Ulama/ MPU) in Aceh. Such acts also occurred in Kalimantan, Lampung, Sulawesi and Jambi.

After the acts of misdirection, government gave warnings to former administrator, members, followers and/ or sympathizers of Gafatar through the Joint Decree of the Minister of Religious Affairs, the Attorney General and the Minister of Interior (Surat Keputusan Bersama/ SKB). Ministry of Religious Affairs through the Decree number: 93/2016, Attorney General through the Decree number: Kep.43/ A/ JA/ 02/2016 and Minister of Interior Decree of 2016 number 223-865 on Warning against Former Administrator, Members, Followers or Sympathizers of Fajar Nusantara Movement (Gerakan Fajar Nusantara/ Gafatar). In essence, the State ordered them to not continue the teachings of Gafatar.

Along with warnings against former administrators and sympathizers, acts of intolerance and discriminatory treatment also occurred, as experienced by students of Birul Walidayn campus. Such rejection was conducted openly through mass demonstrations.

In addition, there was an act of discrimination against a citizen named Suratmi, who suffered a miscarriage after being expelled from Mempawah, West Kalimantan. Suratmi, a resident of Haurgeulis in Indramayu was often rejected by local government because of her different belief. Then the psychological terror was committed to children of former members of Fajar Nusantara movement, through a policy of repatriation and temporary shelters which were constantly relocated. As a result, children of former members of Gafatar experienced trauma and loss of joy.

The next pattern is forced dissolution of the social activities undertaken by former Gafatar members, even when they made attempts of clarification as well as when they sang the National anthem by local residents in each area resided by former members and administrators of Gafatar. The forced dissolution of activities was followed by sweeping actions by local resident's and State officials on the grounds of maintaining their safety and security.

One of the most serious stages of violations experienced by former members and administrators of Gafatar was the arson of their settlements and their assets such as an Avanza car belonging to the former administrator of Gafatar in front of the Regent's office of

Mempawah by the mass. The reason behind the arson of the car was because the former members of Gafatar refused to leave Mempawah. The arson of nine houses belonging to the former members of Gafatar by the mass also occurred in Moton Panjang, East Mempawah, Regency of Mempawah, West Kalimantan. The arson of Gafatar's assets occurred because Gafatar was accused of being a heretical sect as well as a rebellious movement, and was reluctant to leave the Regency of Mempawah despite the fact that they had been given an ultimatum. It was then followed by expulsions by residents supported by the police and Indonesian National Army (Tentara Nasional Indonesia/ TNI) to return them to their respective areas of origin.

The unpreparedness of the related parties in the process of expulsion was wrapped as a form of "repatriation to villages" from some areas in West Kalimantan. Abandonment and constant relocation to several places often occurred on the grounds that the budget to return former members of Gafatar was unavailable. Ultimately, many of them became neglected. As experienced by former members of Gafatar from Batam, while 300 former members of Gafatar from North Sumatra were temporary lodged in Hajj Dormitory in Boyolali Solo. Moreover 30 people from Jambi were temporary lodged in military barracks, then transferred to the Hajj Dormitory.

Consequently, in addition to experiencing the uncertainty of the future, their children also experienced issues of education. Among others was experienced by 800 former members of Gafatar seeking clarity to the government regarding their fate through Attorneys of the Association of Indonesian Advocates (Perhimpunan Advokat Indonesia/ Peradi). They demanded the restoration of their assets that they had invested in Mempawah, West Kalimantan and the surrounding areas. They stated that they had invested their own capital to grow crops, but they were forced to return to their respective areas by the government.

The last pattern experienced by the former administrators of Gafatar was the fact that they were criminalized with charges of defamation of religion and even treason, as experienced by three former leaders of Gafatar Ahmad Mushaddeq, Mahful Muis Tumanurung, and Andri Cahya. On the other hand the treatment towards former adherents of Gafatar who lost their assets such as homes and agricultural land were not followed up by the government. Currently the former adherents of Gafatar are spread in many areas, most of them live in the uncertainty

of the future and need to restart their lives from zero.

Discriminative treatments of the State and society against the “Salamullah” movement led by Lia Aminuddin in the early 2000s were not much different from what has been experienced by Gafatar these days. Groups of beliefs who did not pose significant threats to life but caused disturbances to mainstream groups who did not want their status quo to be threatened, were criminally charged under the pretext of tarnishing, insulting and adopting heretical teachings from the principals of their main religion. Other excuse often used to discredit them is the syncretism of religion.

In general, the chronological treatment towards the Salamullah movement led by Lia Aminudin’s can be explained as follows. First, in 1997, Lia Aminudin claimed to receive revelations from the Archangel Gabriel. Lia’s statements delivered to the adherents of Salamullah resulted in protests from Muslim groups, especially among the ulemas, particularly since Lia claimed to receive revelations from Archangel Gabriel in 1997. Kiai Haji Ali Yafie, as Chairman of the MUI at the time, responded defensively by stating, “It is impossible for Lia to meet Archangel Gabriel, let alone to receive his messages”.⁹⁴ Then on December 22, 1997, the MUI issued a fatwa condemning Lia’s confession stating that it contradicted to the Al-Quran. The Scripture mentions, that after the Prophet Muhammad, there will not be another prophet and that Gabriel’s task to deliver the revelation, is only meant to the apostles, and it ends with the Prophet Muhammad.

Second, Lia did not seem to be moved by the MUI’s fatwa on August 18th, 1998. Lia even gave a self proclamation that she was appointed by Archangel Gabriel to be an Imam Mahdi. She also announced her son, Ahmad Mukti, was appointed as the Prophet Isa. Lia’s proclamation spontaneously caused controversions. In a book entitled “*Perkenankan Aku Menjelaskan Sebuah Takdir*” which made a commotion to the scholars at that time, but, Lia and her approximately 100 loyal adherents did not care for it. In her speech, Lia exclaimed that she came not only

⁹⁴ Processed from various sources among others;resensiakhirzaman.blogspot.com/...eden-pemimpin-aliran-salamullah.html. Accessed on December 15th2016. Also from: <https://myrepro.wordpress.com/2016/06/22/sekte-sekte-agama-yang..> Accessed on December 15th2016.

to save the Indonesian people who were drenched in sin, but also to save the world. "So, believe in the messages that I deliver". MUI's fatwa was answered by Lia by stating that MUI was actually misguided because it adjudicated the truth. Lia emphasized, "Curse those who adjudicate the truth by means of unfair and arbitrary ways! So be it the edict of Gabriell!".⁹⁵

Third, on June 24th, 2000, Lia declared Salamullah as a new religion. Their doctrine is essentially to continue believing the Prophet Muhammad as the last prophet. There are no new prophets after Muhammad. According to this teaching, there is a resurrection of the Prophet Isa, Imam Mahdi, and the spirit of the saints. The holy book, which is still being refined, is Al-Hira. But, so far, Salamullah adherents still pray as taught by Prophet Muhammad.⁹⁶

The establishment of the new religion spontaneously created a stir within the public, especially among Muslims. As if they were apathetic towards the bustle of people who talked about their new faith, Lia held a fire purification ritual on April 22nd, 2001, at a Vila Bukit Zaitun, in Puncak, Lia and her congregation went through the flames bare nakedly, and shaved their heads after the ritual believed to be a "reckoning" (Gods Reckoning) to rid themselves of all sins.

This time, not only the Salamullah group caused reprehension, but it also caused acts of anarchy. Local residents destroyed Vila Bukit Zaitun, where the flame ritual was conducted. Residents could not accept the presence of Salamullah which was considered as a heretical sect by local residents although insisted that its message was not spread to other population other than the Salamullah group. Luckily, before the destruction occurred, most of the Salamullah followers had headed back to Jakarta. There were no casualties in the anarchy. However, at that moment MUI did not strongly react against Salamullah or it tended not to respond.

Fourth, for 34 days after confessing to be enlightened with

95 Sources: resensiakhirzaman.blogspot.com/...eden-pemimpin-aliran-salamullah.html, accessed on December 15th 2006.

96 Hafiz Abdurrahman: They (Adherents of Lia Eden) do not admit to the truth of Islam, in mediaumat.com/wawancara/1349.pdf. Accessed on December 15th 2016.

“spiritual perennial”, the Salamullah group made a Tawhid trip at the beginning of July and September in 2014, to Java, Bali and several regions in Indonesia. This trip was related to the core teachings of Salamullah, namely monotheism, which was not polytheistic and worshiped God. A total of 34 followers convoyed with cars, visiting the tomb of Wali Songo and the hermitage of Parang Kusumo in Yogyakarta, they visited the sultan empire of Yogyakarta and Solo, then to the tomb of Bung Karno, as well as the Hermitage of Gunung Kawi, in East Java. Pesantrens were also visited.

Before this Tauhid trip, Salamullah followers visited 100 embassies and 130 churches in Jakarta. It was done four months before the invasion of America and its allies to Iraq. The message they relayed was: Peace in the future.

Fifth, on June 29th, 2006 Lia could not roam free because she was sentenced to prison by the District Court of Central Jakarta. She was sentenced to 2 (two) years in prison. During the Judge ruling Lia was found guilty for desecrating religion, conducting unflattering deeds, and spreading hatred. As if not deterrent at all, Lia gave a controversial statement during the verdict. She stated “If you release me, I will pray to God to subside the mud in Sidoarjo and Mount Merapi. If I cannot prove myself, let me be sentence to death.”⁹⁷

Sixth, on June 2nd, 2009 the District Court of Central Jakarta re-sentenced Lia to 2 years and 6 months of prison. She was ruled guilty of defamation and blasphemy. The verdict came after the police seized hundreds of brochures which were considered to contain blasphemy.

The short chronological descriptions above describe how the State responds and/ or treat the phenomena of the rise of New Religious Movements. The red line that can be seen, among others: the State always uses juridical and criminalization of beliefs approaches, although the perpetrators did not commit crimes. The State should learn from the experience of countries such as America, and Japan as well as European countries in responding to the existence of the New Religious Movements. In Japan, for instance, people will enforce the law in form of restrictions and repression when expressions of religious/ belief

⁹⁷ Quoted from GATRA interview by *resensiakhirzaman.blogspot.com/...eden-pemimpin-aliran-salamullah.html*. Accessed December 15th 2016.

threaten public safety or damage the social relations of the society. For example, in the case of Aum Shinrikyo cult under the leadership of Shoko Ashara, from 1994-1995 the sect conducted attacks of sarin gas to Tokyo's subway line, the Japanese police immediately undertook massive investigation and managed to uncover the Aum Shinrikyo as the mastermind behind the attacks.

Raids were conducted to the secret headquarter of Aum Shinrikyo located at the foot of Mount Fuji where the police successfully found stocks of arms and supplies of sarin gas which was suspected enough to kill up to 4 million people. Not long after, the Japanese police also managed to capture hundreds of members of Aum Shinrikyo, including Shoko Asahara. Based on the local court ruling, Ashara and several senior members of Aum Shinrikyo were sentenced to death.

Towards the end of 1995, Aum Shinrikyo was no longer recognized as an official religious organization by the local authorities and was declared bankrupt a year after. Several former members of the Aum Shinrikyo sect tried to improve the image and changed the name to "Aleph" and declared themselves to no longer conduct and support activities of murder, but this movement was not well received in the society.

Similar case happened in United States occurred on March 26th, 1997 where the doomsday sect called "Heaven's Gate" performed mass suicide. Its two founders were Bonnie Nettles and Marshall Applewhite. The two met when Marshall had a heart attack in 1972 and was cared by Bonnie. Marshall believed that Bonnie was the witness of apocalypse according to the book of Revelation in the Bible. Two members of the cult, Mark and Sarah King, are still alive and do not commit suicide because they were instructed by the founder to preserve Heaven's Gate's digital legacy.

The same situation was also experienced by a New Age group in China who called themselves as the "Established King", a sect led by Wu Yangming taught its members who were under aged girls not to marry, except when she had to have sex with him in order to enable him to bestow upon "God's salvation for ordinary people." Wu Yangming was taken to court and sentenced to death, because many had fallen victims.

Learning from the cases of Aum Shinrikyo sect in Japan, Heaven's Gate in the United States as well as the Established King in China, the

State will only take action when expressions of religion or belief have been conducted and badly impact the co-existence, as is done by sects of the new age mentioned above. The State does not prosecute beliefs simply because those beliefs are different. However what happens in Indonesia community and many law enforcement officials often regulate new religious movements and give improper treatments to them. In essence, it is caused by the use of false perspective on the New Religious Movements.

E. Policy Prospects

The phenomenon of the rise of a new religion has always been responded by the state using legal approaches and towards the end the perpetrator or the founder of a new religion should receive severe punishment as the perpetrators of the desecration/ defamation against old religion or mainstream religion. Not many State apparatus and academic circles would dare to ask why the new religion emerged. The repressive approach towards the rise of New Religious Movements will not be able to explain the sociological phenomena that are real and factual regarding to the emergence of the new religion. In addition such approach will not be able to terminate beliefs/ faith in the *forum internum* of leaders and each of his/ her followers. The more they are repressed, the thicker their religious beliefs will be, or at least there will be a new religion label transformation based on the repressed spirituality.

Observing the repressive State responses to the phenomena of New Religious Movements, in fact it gives an understanding that there is a reality where most people do not find anything in the old religion. In other words, for some people old religion can no longer give enough hope for the better new world order. There was a concern, if we deny and repress New Religious Movements, we will deny an offer and a great idea for the better a new world order. New religion could be the potential social asset for our future.

Therefore some considerations that should be taken are: First, the society and the State apparatus should not rush to judge new religious movements as a group who deviate from the principal teachings of the old religion, and to threat them with the offense of blasphemy. Moreover society and the State apparatus should not judge them as long as they do

not threaten public safety, public order, public health, public morality and the rights of others.

Secondly, restricting to only 6 (six) religion which are officially recognized is a violation of freedom religion or belief that is also a part of human rights. Therefore, the State as the duty bearer can not violate their existential and religious rights.

Thirdly, the phenomena of the rise of New Religious Movements should be responded with more in-depth studies, by not rushing to legally label them as “non religion” or vice versa in a black and white frame state of mind. Considering that religious issues are still crucial matters in the context of the nation-State in Indonesia, an in-depth study regarding what can be called a religion and a non religion is required. Religion category that is developed should not only based on the consensual of the dominant religious groups.

From some reflective notes stated above, several policies regarding the prospective New Religious Movements in Indonesia can be formulated in the form of some of the following treatments.

1. Improve the perspective and provide comprehensive guarantees of the religion/ beliefs including New Religious Movements through the replacement of Law No. 1/ PNPS/ 1965 jo. Article 156a of the Criminal Code relating to the crimes of defamation of religion with a new law which has a further perspective of the human rights and diversity.
2. Stop the practice of criminal prosecution against any different religious groups or beliefs with the use of Law No. 1/ PNPS/ 1965.
3. Free the “prisoners of conscience”, citizens who were convicted to prison for having beliefs that are different from the mainstream religion/ belief and stop the ongoing criminalization process against the adherents of those beliefs.
4. Withdraw charges of treason Article 110 jo. 107 of Criminal Code towards the three leaders of Abraham Millah including towards groups of other beliefs. In fact, juridically, it is difficult to prove that they actually commit the crime of subversion. Such sentencing practices thus constitute a misuse of law to separate the leader from his/ her followers, to combat the teachings of Millah Abraham and other New Religious Movements, and to fulfill the will of the majority of

mainstream religion/ belief.

5. Ensure the constitutional rights of citizens to freedom of association and assembly, to express thoughts and opinions in order to participate in the development of Indonesia towards the better national and state order.[]



CHAPTER V

CLOSING

A. Conclusion

Based on the explanations from previous chapters, especially Chapters I, II, and III, some conclusions can be drawn in the form of findings and new insights as follows.

First, in general, the key findings of the research and monitoring of conditions of freedom of religion/ belief and protections of religious minorities in 2016 indicate that fulfillment of the constitutional rights of citizens to freedom of religion/ belief and guarantee of the protection of religious minorities are worsen. There is a significant increase in the number of incidents and acts of violation of freedom of religion/ belief and of religious minorities' rights.

In 2016, SETARA Institute recorded 208 incidents of violations of freedom of religion/ belief with 270 forms of acts, spread in 24 provinces. Most of the violations occurred in West Java, with 41 incidents. Violations also occurred in Jakarta (31 incidents) and East Java (22 incidents).

Of the 270 forms of freedom of religion/ belief acts of violation, there were 140 acts of violations involving State officials as the actors. Of the 140 State acts, 123 of which are in forms of active acts (by commission), while 17 acts are acts of omission (by omission). Included in the State's active acts are statements by public officials which are provocative and leading to violence. A legal framework that holds accountable for violations involving the State as actors is the human

rights law, which binds the State as the consequence of the covenants ratification and international conventions of human rights.

The top 5 State actors who committed acts of violations were the police with the highest number of violation, as many as 37 acts, regency/ city government with 35 acts, educational institutions with 11 acts, the Ministry of Religious Affairs with 9 acts, and the Attorney 8 acts.

Of the 270 violations of freedom of religion/ belief, there were 130 incidents committed by non-State actors. Perpetrators of violations in this category are citizens and members of community organizations. Non-state actors who committed the highest number of violations were the groups of citizens, with 42 incidents. All acts of citizen groups were categorized as crimes which provided the space for the State to fulfill its responsibility to legally process them.

Other non-state actors who committed the high number of violations of freedom of religion/ belief, following the groups of citizens are: Alliance of Islamic Organizations (30 incidents), MUI (17 incidents), FPI (16 incidents), and the companies (4 incidents).

Throughout 2016, violations of freedom of religion/ belief were mostly committed to Fajar Nusantara Movement (Gerakan Fajar Nusantara/ Gafatar). Gafatar experienced 36 incidents of violations, while the second biggest victims, the citizens, experienced 33 incidents of violations. Following them are the Indonesian Ahmadiyya Community (27 incidents), Shia Islam (23 incidents) and individuals (21 incidents). In addition, two other minority groups who became victims in many of incidents of violation are Christians (20 incidents) and religious sects (19 incidents).

Second, the high number of violations of freedom of religion/ belief in 2016 is linearly compared with the conditions of religious minorities in Indonesia. Of the four categories of religious minorities used by SETARA Institute, there are some minorities who become the objects of their constitutional rights violations, namely Gafatar, Ahmadiyya, Christians, Shia Islam, religious sects, and Indonesian traditional beliefs. Those religious minority groups experienced some predominant acts of violations, among others are: (1) intolerance, (2) teachings misdirection (3) coercion of belief, (4) expulsion, (5) hate speech, (6) act of terror, (7) act of condoning, (8) forced termination and prohibition of religious practices/ activities, (9) threat towards children of the minority groups,

(10) discrimination, (11) act of omission, (12) criminalization, (13) rejection and forced termination of construction and/ or renovation of places of worship, (14) intimidation, (15) sealing a place of worship, (16) prohibition of scientific forum, (17) the dissolution and rejection of religious activities, (18) destruction of minority groups' properties, (19) extortion, and (20) coercion to wear religious attributes of other religion.

Third, violations towards the rights of the religious minorities in Indonesia in 2016 were caused by several common as well as specific catalysts. Common catalysts of violations of the entire groups of religious minority were: (1) the strengthening and spreading of intolerant groups, (2) the poor policies and State regulations, and (3) the submission of the State officials both at the local level and in the presence of the intolerant groups.

Meanwhile, specific catalysts of violations were related to the conditions attached to each religious minority group. Critical vulnerability experienced by Ahmadiyah was caused by some catalysts; (1) The socio-religious exclusion of its existence and identity from the Islamic identity; (2) legally, there was the joint decree of the Minister of Religious Affairs, the Attorney General and the Minister of Interior which was based on MUI fatwas and which misled the Ahmadiyya. The decree restricts and prohibits Ahmadiyya's religious activities and preaches.

Meanwhile, the violations against the Shia Islam was also fueled by a specific catalyst, which was the poor literacy of Muslims and residents on the teachings of *mazhab* Shia Islam which was believed to be one of the major *mazhab* in the spectrum of Islam.

Specific catalyst which triggered violations against Christians was a technical negligence regarding their places of worship because Christianity and Catholicism are the two official religions recognized by the State. While specific catalysts to the violations against new religious movements minorities, religious sects, and Indonesia traditional beliefs were relatively the same, namely; (1) the false perspectives adopted by citizens or mainstream religion adherents which were used more to judge with misdirection rather than to understand them as differences; (2) the inappropriate repressive approach taken by the State which uses religious defamation issue as a tendency of criminalization. The

State should take the persuasive and sociological approaches which view the existence of the minority groups as a new effort to cope with social, economic and politic changes through the search of spirituality, religiosity, philosophy, and new visions and missions towards a better life.

Fourth, the high violations of freedom of religion/ belief and religious minorities in general were related to key variables, such as the substantive preconditions which have not yet been established towards the ideal conditions of freedom of religion/ belief. For example, the strong politico-juridical guarantee of the rights to adopt religions/ beliefs, fair and strict enforcement of the law, the lack of State intervention as to adopt a religion/ belief is negative right, and the establishment of civic awareness which encourages civic engagement in respecting each individual's freedom of religion/ belief as a human right.

Fifth, from the regime side, one of the triggers of the high number of violations of freedom of religion/ belief is the measures taken by Jokowi-JK administration which do not seem to be concrete in addressing the fundamental issues which provoke violations. This government still tends to simplify the freedom of religion issue as a religious harmony. In addition, similar to the previous administration, the tendency of the present administration to give false hopes in responding to the issue of freedom of religion/ belief is starting to appear. Among others, it can be seen from the government's declaration on the cancellation of regional regulations which hamper investments and are not in accordance with the spirit of unity and diversity or the government's declaration on the cancellation of discriminatory regional regulations which have been problematic. However, when examined in detail, cancellations of regional regulations were extremely minimal. Of all the 3,143 canceled or revised regulations were almost entirely on the deregulations to facilitate capital flows such as regional regulations levies, licensing, and so forth. There was only one discriminatory regional regulation canceled, namely East Kolaka Regional Regulation No. 4 of 2011 on the Prohibition of Prostitution because it contained provisions which discriminated women. There was not a single cancellation or revision of a regulation that discriminated religious groups in the regions, particularly the religious minorities.

Sixth, the central government seems to have certain confusion in

evaluating the regulation in the local level, because one of the major weak points in the issue of freedom of religion/ belief is the regulation in the central level, particularly at the ministerial level. Problematic regulations are not only spread in regions, but they are also entrenched at the central level. One of the most problematic regulations is the Joint Decree of the Minister of Religious Affairs and the Minister of Interior No. 09 and No. 08 of 2006 on the Guidelines for the Duties of Mayor/ Vice Mayor for Inter-Religious Harmonization and the Empowerment of the Inter-Religious Harmony Forum and the Building of the Place of Worship. SETARA Institute's research data for past nine years explained that almost all disturbances to places of worship, which reached to 346 cases were triggered by the ministerial regulation. Substantively, the decree does not provide justice and legal certainty to minority groups in intra and inter-religious relations. In that context, instead of optimizing the decree as an instrument of harmony and justice for all religious communities, it is often instrumented as the legal-administrative filter to complicate the establishments of places of worship of the minority groups. Such situations can easily be found in Aceh, North Sulawesi, Bali and Papua.

Seventh, by cross-correlating the levels of violation variables, the actor of violations as well as the State's position and treatments throughout 2016, SETARA Institute makes one general conclusion that what currently occurs in the context of freedom of religion/ belief and protection of religious minorities is strengthening the intolerance supremacy.

Intolerance supremacy can be easily identified through some of the following symptoms:

- (1) The high intensity of the violations and intolerance by groups of citizens who regularly become the major actors of non state acts. The graphic of the acts of the non-state actors in Chapter II clearly explained that the actual and potential threats of freedom of religion/ belief and protection of religious minorities were derived from socio-cultural and horizontal knots.
- (2) Acts of intolerance of the citizens group were intensified by similar acts which were often committed by community organizations with religious backgrounds, for instance FPI,

FUI as well as the alliance of several religious organizations.

- (3) Those acts received their justifications through the use of religious dogmas to negate others and through the use of religious edicts issued by MUI on misdirections and prohibitions. In many cases, acts of intolerance also occurred due to and as an excuse to implement the religious Fatwas (edicts). For example, the MUI's Fatwa No. 56 of 2016 on the Use of Non-Muslim Religious Attributes clearly provoked some intolerant groups to conduct religious attributes raids. Similarly, the MUI's fatwa on defamation of religion which was addressed to Basuki Purnama Tjahaja after his speech regarding Surah Al Ma'idah 5:51 had consolidated several intolerant groups to commit acts of violation such as intolerance, discrimination, hate speech and hate crime. Thus, there was inter-causality between dogmas as well religious fatwas and acts of intolerance of the intolerant groups.
- (4) Two forms of State officials acts; (a) discrimination committed towards groups of religious minorities as the result of State's submission to the will of intolerant groups; and (b) the adaptation of religious fatwas to the State's formal government regulations. In many cases, discriminatory policies adapted religious fatwas, particularly the MUI fatwas, as a part of the preamble.
- (5) The failure of the fair enforcement of the law. Criminalization of victims of violence in the name of religion as experienced by Tajul Muluk in the Sampang Tragedy II in 2012 and the court which submitted to the will of the crowd was a concrete example that the enforcement of law regarding freedom of religion/ belief failed to work impartially.

The five situations simultaneously indicated the occurrence of intolerance supremacy. Intolerance, which is culturally entrenched, has inter-causality with dogmas and religious fatwas, legitimized by State discriminatory policies which adopt such dogmas and fatwas as well legitimized by State policies which participate in committing discriminative acts to "serve" the will of the intolerant group and resulted in the enforcement of laws failures, has caused the collapse of

the supremacy of the law and the constitution.

Eighth, in such context, SETARA Institute has repeatedly reminded the President and the Vice President on the eight (8) commitments and hopes in the grand narrative of “*Sembilan Cita Politik*” (Nawa Cita). Such 8 commitments provide hope for human rights agendas, including the rights to religion/ belief, namely: (1) To return the State to its task to protect and provide security to all citizens [Nawa Cita 1]. (2) To ensure security to citizens by building professional Indonesian Police [Nawa Cita 1, point 6]. (3) to build strong legislations in the implementations of human rights [Nawa Cita 4, point 1]. (4) To ensure legal certainty [Nawa Cita 4, point 7]. (5) To protect marginalized groups [Nawa Cita 4, point 8]. (6) To respect human rights [Nawa Cita 4, point 9]. (7) To implement civic education [Nawa Cita 8, point 1], to strengthen diversity and social restoration in Indonesia [Nawa Cita 9], and to strengthen the education of diversity [Nawa Cita 9, point one]. (8) To create spaces for dialogues among the citizens [Nawa Cita 9, point 1] and social restoration in order to restore the spirit of harmony among the citizens [Nawa Cita 9, point 2].

It is time for the government of Jokowi-JK to take strategically concrete actions to: (1) undermine the intolerance supremacy by upholding the supremacy of law and the constitution, (2) prevent the recurrences of acts of violation of freedom of religion/ belief and violations of religious minorities rights, (3) prevent the recurrence of stagnation in the life of religion/ belief in Indonesia in the two periods of Susilo Bambang Yudhoyono administration,⁹⁸ and (4) emphasize the attitude of zero tolerance towards all acts contradicting to diversity and undermining Pancasila and the Constitution of the Republic of Indonesia. The time to only plan and talk has passed. Today is the moment to act, before the President and his elites are preoccupied with the electoral politics in 2019.

Ninth, based on the views of various sources of research and monitoring at the central and local levels, we face several challenges

98 SETARA Institute has intensively reviewed the evaluations of freedom of religion/ belief in Indonesia during the governance of Susilo Bambang Yudhoyono which experienced acute stagnation. See Halili and Bonar Tigor Naipospos. *Stagnasi Kebebasan Beragama: Conditions of freedom of religion/ belief in Indonesia in 2013* (Jakarta: SETARA Institute, 2014).

in managing harmony, which can be described in the following points. (1) Management of harmony or of religious freedom in Indonesia is still faced with the strong intolerant groups which can hardly be punished despite the fact that the evidence of intolerance has been scattered. (2) The existence of organizations rejecting *Pancasila* and Indonesia as a democratic country is still tolerated and not limited. (3) More operational regulations are needed, where such regulations are derived from serious study cases from several parties regarding the problems and solutions to address the issues of the violation towards the religious and constitutional rights of citizens in general. (4) The tensions between religious communities which are challenges towards freedom of religion/ belief among others are triggered by of economic and political injustice factors. Economic and political factors which turn religions as shields can encourage radical groups to take over the public and democracy stages. (5) The challenges related to the right to construct places of worship, the handling of hate speeches, hate crimes, as well as the issues of religious sects and local beliefs.

B. Policy Recommendations

Taking the previous analysis, findings, insights and conclusions into account, SETARA Institute proposes the following recommendations.

First, the government must design, plan and optimize the role of teachers and lecturers, from the level of early childhood until university to implement diverse, open and tolerant education which is oriented to strengthening the nation and State based on *Pancasila* and the 1945 Constitution of the Republic Indonesia.

Second, the government should reposition its officers, especially the police and local government (from provinces to the villages) as front liners of the enforcement of the law and protection of all citizens as well as the defenders of the State's foundation and constitution.

Third, State must ensure strict and fair enforcement of the law based on *Pancasila* and the 1945 Constitution.

Fourth, government must optimize the functions of education, socialization, and literacy regarding tolerance and harmony as well as discrimination and intolerance preventions through the optimization of television, social media, and online media as arenas and spaces for

productive discourses.

Fifth, government must strengthen and intensify initiatives and the implementations of equal dialogues between groups of religions/ beliefs.

In the context of the government's internal governance to guarantee freedom of religion/ belief and to ensure the rights of religious minorities and human rights in general, Jokowi-JK should:

- a) Instruct the Chief of Police of Republic of Indonesia to establish standard operating procedures (SOP) to address cases of violations of freedom of religion/ belief as well as to build the capacity and perspective of human rights among members of the police of Republic of Indonesia regarding issues of freedom of religion/ belief.
- b) Urge his government officials to enforce the law through persecuting the actors of violations of freedom of religion/ belief and the rights of religious minorities as well as to physically, socially, politically and materially restore the rights of the victims of violations.
- c) Evaluate the performance of the Minister of Religious Affairs and Minister of the Interior on the agenda of the repatriation of religious minorities, particularly ShiaIslam and Ahmadiya Muslim Community who are victims of expulsion due to their beliefs, then order the ministers to take strategic and progressive measures.
- d) Conduct comprehensive evaluations of the implementations of the President and Vice president's political promises stated in Nawa Cita as they enter the third year of their leaderships, particularly on the issues of social and human rights restoration.[]

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