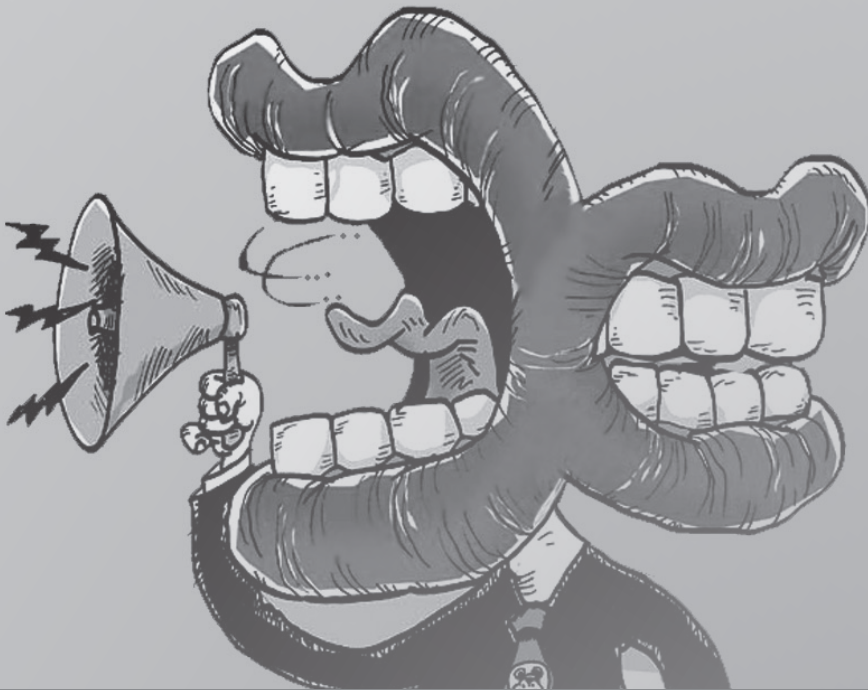


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The Condition of Freedom of Religion/ Belief in Indonesia 2011



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Foreword

The freedom of religion / belief condition report in Indonesia in 2011 was presented to the public on December 19, 2011. However, due to various resource constraints this report has just been published in February 2012. As a monitoring report, this publication is intended in order to expand the spectrum of readers and the expansion of Setara community constituency to jointly advocate the freedom of religion / belief in Indonesia.

The report titled Discrimination Politics in the Regime of Soesilo Bambang Yudhoyono, is the fifth report since 2007 SETARA Institute publishes an annual report. As written in previous reports, the events of freedom of religion / belief violations reported by using the standard method and recording. Regular modifications made for the current themes which becomes the tendency in the particular recent years. This time, the report contains nine kinds of topics of discrimination and violence targeting religious groups / beliefs, and spread in different areas. The variety of discrimination in section III is intended to demonstrate to all parties that discrimination targets all the layers of religious groups.

The theme of this fifth report represents the achievements of this state's anticlimactic performance in promoting pluralism and the freedom of religion / belief guarantee in Indonesia. Discriminatory politics which becomes the state's choice reflected in the sequence of events that occurred since the 2007-2011 that keeps increasing



and did not get serious handling by the state. This report invites all readers to think, take side, and act tolerantly and quickly encouraging all state's components to take part in the promotion of human rights. []

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CHAPTER 1

Introduction

1. Background

Implementation of the constitutional guarantee of freedom of religion/belief in Indonesia is mandated under the 1945 Constitution of the Republic of Indonesia as amended in the years 2000-2004. In addition to being a constitutional mandate, implementation of the guarantee of freedom of religion/belief is also a consequence of the political act of the state in ratifying the International Covenant on Civil and Political Rights in 2005 through Law of the Republic of Indonesia No. 12 of 2005. On the constitutional mandate and the legal mandate above, the entire national paradigm of Indonesia is set forth in documents arising from a consensus among Indonesian people affirming that plurality is a sociological fact that must be held in high esteem, respected, and continues to be maintained. The Indonesian nation was established precisely because of the acknowledgment of this diversity.

The People's Consultative Assembly (*Majelis Permusyawaratan Rakyat*/MPR) of the Republic of Indonesia has also affirmed four pillars of the life of the nation and state. Apart from being a response to concerns about the current state of the Indonesian nation, the MPR in very timely fashion again rolled out a genuine consensus born out of the long history of the Indonesian people. Since 2009,

MPR RI has continued to campaign on the Four Pillars of National Life, namely *Pancasila*, Unity in Diversity (*Bhinneka Tunggal Ika*), Constitution, and the United Nation of the Republic of Indonesia (*Negara Kesatuan Republik Indonesia/NKRI*). At the level of the vision of nationality, the four pillars of the life of the nation and state appear to be a kind of affirmation that puts an end to the various tensions occurring throughout the history of this nation. Tension in relations between religion and state, relations between the majority and minorities, and an emphasis on the positive values of particular religions [can be found] in the text of the Constitution of the Republic of Indonesia.¹ These tensions have been overcome normatively by pushing a genuine consensus confirming that this country was established based on *Pancasila*, which guarantees diversity of ethnicity. Further, the 1945 Constitution of the Republic of Indonesia asserts more robustly on guaranteeing acknowledgment of diversity, including guaranteeing diversity of religions/beliefs by formulating the constitutional right guaranteeing freedom of religion/belief. It has to be admitted that the 1945 Constitution of the Republic of Indonesia fails to affirm the ideal form of the State of the Republic of Indonesia, whether it is a secular state or a religious state. Nevertheless, the constitutional guarantee of freedom of religion/belief should be appreciated.

Apart from the emphasis in Article 29 (1), which mentions that “The State shall be based upon the belief in One Almighty God”, the argument on the imperfect structure of the state is also reflected in the formulation of the limits to the guarantees of the constitutional rights of citizens recorded in Article 28 J (2), which reads:

“In exercising his/her rights and freedoms, every person shall have the duty to accept the restrictions established by law for the sole purpose of guaranteeing the recognition and respect for the rights and freedoms of others and of satisfying just demands based

1 Note that these events took place during the formulation of the Text for the Youth Pledge, the debate at BPUPKI while preparing the Text for the 1945 Constitution, and the debate on the Amendment of the 1945 Constitution of the Republic of Indonesia concerning Article 29 in 2000-2004.

upon considerations of morality, religious values, security and public order in a democratic society.”

The formulation of the limits to the guarantee on citizens’ constitutional rights in the sentence “..based upon considerations of morality, religious values,...”opens up the opportunity for the interpretation by the majority group to dominate, culminating in tense relations between the majority and minorities. The guarantee of this right is blunted in the face of the consideration that such right conflicts with religious values. Reliance on religious values when considering the legitimacy of guaranteeing a right has meant the firm guarantee in the legal formulation is negated by competing interpretations of religious values that cannot be objectified.

On the religious state or secular state structure, ambiguity is also affirmed in the ruling of Constitutional Court when testing Law No. 3/2006 on Religious Courts. In the considerations of its decision, it notes that Indonesia is neither a religious state nor a secular state.² Nevertheless, in light of the formulation of Article 28J(2), which is extremely sociological and whose application is not inclusive, in the practice of religious life/beliefs, the Constitution of the Republic of Indonesia tends to have a religious face rather than a secular face.

The same attitude was displayed by the Constitutional Court of the Republic of Indonesia when deciding on the judicial review case concerning Law No. 1/PNPS/1965 on Religious Abuse and Defacement that was filed by a civil society group. The Constitutional Court presented arguments regarding the relationship between religion and state that could not be affirmed. The political choice by the Constitutional Court to maintain that this Law was constitutional emphasized that the religious face of the Constitution of the Republic of Indonesia is naturally a reference and consideration in rulings on cases connected with the relationship between religion and state.

While normatively the ideal of the guarantee of freedom of

² See Minutes of the Constitutional Court Decision on Testing Law No. 3/2006 on Religious Courts, Case Number 19/VI/PUU/2008, Tuesday, August 12, 2008

religion/belief is made firmer, nevertheless, as a consequence of the construction of an exclusive understanding and interpretation, this normative guarantee fails to be translated into various forms of state policy. Amid the tendency for political uniformity based on religion (read: Islam), morality, and the majority (read: followers of Islam) which is manifested in various forms of legislation and acts that are intolerant, activities to monitor the implementation of the guarantee of freedom of religion/belief are still relevant as a way to encourage the state to continue strengthening its capacity to resolve this mattering order to find a new equilibrium point that guarantees diversity in Indonesia.

The SETARA Institute is a human rights organization that pays attention to progress in the state of human rights in Indonesia. One element to these rights that is being strived for is citizens' rights to freedom of religion/beliefs. Freedom of religion/beliefs is a constitutional right of citizens guaranteed by the Constitution of the Republic of Indonesia and Indonesian laws and regulations.

Monitoring reports on the state of freedom of religion/beliefs have been published regularly since 2007, and constitute one way to urge the state to comply with human rights principles that have become citizens' constitutional rights. As citizens' human rights and constitutional rights, the guarantee of freedom of religion/belief demands that the state continually enhance its guarantee of this freedom by eradicating all forms of intolerance, discrimination and violence in the name of religion.

The background to this monitoring report is also the implementation of freedom of religion/belief, which does not yet have a comprehensive guarantee from the state, and practices of intolerance, discrimination and violence that continue to occur in Indonesia. At a practical level, the availability of a current national database that can become a reference on the state of religious life/beliefs in Indonesia is also a real need as a sociological reference for drawing up legislation and state policy to support progress in human rights. This report becomes very relevant as a real portrait of the state of freedom of religion/belief in Indonesia.

Monitoring and publishing an annual report is intended to [1] document and publish facts about violations and advances/progress in guaranteeing freedom of religion/belief in Indonesia; [2] encourage the state to fully guarantee freedom of religion/belief, including making changes to various legislative products that limit freedom of religion/belief, and restoring victims' rights; [3] provide baseline data on freedom of religion/belief; and [4] strengthen civil society networks and the general public by broadening constituencies so that they can participate by pushing for the guarantee of freedom of religion/belief.

Programmatically, in 2010 the SETARA Institute conducted monitoring in 10 provinces, namely: North Sumatra, West Sumatra, Banten, Jakarta, West Java, East Java, South Sulawesi, Bali, West Nusa Tenggara, and East Nusa Tenggara. However, a snapshot of the state of freedom of religion/belief in other regions was also compiled from various media sources and monitor networks. In this way, the report presented also covers other regions of Indonesia.

2. Methodology

Data collection was conducted by [1] monitoring by 17 monitors in 17 provinces; [2] focused discussions in East Java and Jakarta; [3] collection of data from religious institutes and government institutions; and [4] interviews with relevant government authorities and community figures at the local level.

In addition to these four methods of data collection, the SETARA Institute also conducted through the media for areas that were not the locus of monitoring. In this way, while only 17 regions became monitoring focus areas, violations of freedom of religion/belief in other regions outside of these 17 regions could still be monitored and reported. The 17 regions that became monitoring areas were: Aceh, North Sumatra, West Sumatra, Riau, Lampung, Banten, Jakarta, West Java, Central Java, Yogyakarta, East Java, South Sulawesi, Bali, West Nusa Tenggara, East Nusa Tenggara, East Kalimantan, and West Kalimantan.

3. Operational Definitions

The monitoring and writing up of this report on the state of freedom of religion/belief in Indonesia is based on a human rights perspective, which places freedom of religion/belief as an individual right that is a non-derogable right. Therefore, definitions used in monitoring and writing up this report refer to definitions in the discipline of human rights law. Freedom of religion/belief is a guarantee from the state on freedom of religion/belief for individuals and on freedom to worship for individuals and groups. Religious freedom is a fundamental human right.³

From a human rights perspective, the terminology of religion or belief is not interpreted narrowly or in a closed manner, rather, it is constructed broadly. A typical misunderstanding that occurs is a declaration that belief in God (theistic) is what is meant by religion. Yet Buddhism, which is non-theistic, and Hinduism, which is polytheistic, are also religions. The understanding of religion or belief is not limited only to traditional religions or to institutions that have characteristics or practices analogous to these traditional religions. Newly established religions and beliefs, and minority religions, are entitled to the same protections as the dominant religious community that is in control.⁴ A human rights perspective also stresses that theistic and non-theistic followers, and those who declare that they do not have a religion or belief, all have rights and must receive protection.⁵

The basic human rights instrument that regulates the guarantee of freedom of religion/belief is the International Covenant on Civil and Political Rights (ICCPR) (1966), specifically article 18, which provides: (1) freedom to have or to adopt a religion or belief of one's choice, and the freedom, either individually or in community with others and in public or private, to manifest one's religion or belief

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

4 Paragraph 2 – General Comment 22 on Article 18, UN Human Rights Committee, 1993

5 *Ibid*

in worship, observance, practice and teaching; (2) without coercion, which would impair one's freedom to have or to adopt a religion or belief of one's 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 parties to the 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 ratified this international covenant through Law No. 12/2005 on Ratification of the International Covenant on Civil and Political Rights. This Covenant is legally binding and as one of the state parties that have ratified it, Indonesia is obliged to include it as part of national legislation and to make periodic reports to the UN Rights Commission.

Another human rights instrument that regulates the guarantee of freedom of religion/belief is the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, arising from UN General Assembly resolution No. 36/55 on 25 November 1981. This declaration is far more detailed in regulating the guarantee of freedom of religion/belief than the International Covenant on Civil and Political Rights, simply because the form of the declaration means that it is non binding for state parties. However, while it is not legally binding, this declaration reflects a broad consensus within the international community. Therefore it has moral authority in practices of international relations in general. As a member nation of the UN, Indonesia cannot ignore this declaration in carrying out its obligation to satisfy the rights of its citizens.

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

In accordance with Article 1 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:

- (a) To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;
- (b) To establish and maintain appropriate charitable or humanitarian institutions;
- (c) 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;
- (d) To write, issue and disseminate relevant publications in these areas;
- (e) To teach a religion or belief in places suitable for these purposes;
- (f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
- (g) To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- (h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- (i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

Article 28E of the 1945 Constitution of the Republic of Indonesia also affirms the guarantee of freedom of religion/belief, as this Article reads as follows:

- (1) Every person shall be free to choose and to practice the religion of his/her choice, to choose one's education and teachings, to choose one's employment, to choose one's citizenship, and to choose one's place of residence within the state territory, to leave it and to subsequently return to it.
- (2) Every person shall have the right to the freedom to believe his/her faith, and to express his/her views and thoughts, in accordance with his/her conscience.”

Based on these two human rights instruments and the Indonesian Constitution above, in summary the operational definition of **freedom of religion/belief** includes the freedom to embrace a religion or belief of one's own choosing, the freedom to either alone or in community with others to worship according to one's religion or belief, along with observance, practice and teachings in public or private, including the freedom to change one's religion or belief, and not to embrace any religion or belief at all.⁶ Article 28E also affirms that freedom of religion/belief is the constitutional right of every citizen.

Human rights law is international civil law that places states as parties (state parties); meaning that states are legal subjects obliged to comply with human rights law. As a legal subject, each human rights violation always places the state as the perpetrator. Violations of human rights law occur when a state does not comply with the norms that bind it, as set forth in international covenants and conventions which the state has promised to abide by through the ratification process.

The explanation of the human rights epistemology presented

⁶ Article 18 of the Universal Declaration of Human Rights (1948): “Everyone has the right to freedom of thought, conscience and religion; this right 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.”

above also clarifies the differences between human rights law and international criminal law, which places individuals as the legal subjects. As civil law, the types of punishment available under the human rights law include international sanctions, a requirement to revise policy, and fines intended for the victims whose rights have been violated, in the form of compensation, restitution, and rehabilitation. While for international criminal law (Rome Statute), where the legal subject is the individual, the type of punishment meted out to perpetrators takes the form of prison sentences.

Indonesia as a state that is a party to international human rights law is obligated to respect and protect the freedom of each person to his or her religion and belief.⁷ The fundamental principle of the state's obligation to **respect** human rights is that the state should not do things that violate the integrity of an individual or group, or disregard their freedoms. Meanwhile, the obligation to **protect** is to take action needed to protect the rights of the individual/person's group against a crime/legal violation/violence committed by another individual or group, including taking preventive action against disregard that obstructs enjoyment of their freedom.

Although the basic nature of human rights is that they cannot be abrogated or revoked and apply in full to all humans, but based on the Syracuse principles that have been agreed, there are two ways to treat the exercise of human rights, namely the principle of non-derogable rights (rights whose fulfillment cannot be suspended or deferred) and derogable rights (rights whose fulfillment can be suspended or deferred). The Syracuse principles emphasize that rights can only be suspended or deferred in certain situations or conditions where they are deemed to threaten the public interest.

Meanwhile, the principle of *non-derogable rights* affirms that these rights are absolute, and therefore cannot be suspended or

⁷ See Article 18 of the Universal Declaration of Human Rights, Article 18 of the ICCPR, Articles 28I, 28E, and 29 of the 1945 Constitution of the Republic of Indonesia.

deferred in any situation or condition. The rights covered by this principle include: right to life (not to be killed), right to integrity (not to be tortured, kidnapped, persecuted, raped), right not to be enslaved, *right to freedom of religion*, thought and *belief*, right to be equal treatment before the law, right not to be imprisoned for failing to fulfill one's contractual obligations, as well as the right not to be convicted based on retroactive law. In this manner, any type of act that may cause the loss of an individual or group's right to freedom of religion— as one element of these *non-derogable rights* –can be categorized as a human rights violation.

Although the human rights discourse acknowledges limits to the discharge of the guarantee of freedom in human rights, monitoring still includes various violations, for both rights included under the internal forum category and freedoms included under the external forum category. Individual freedom that is absolute and fundamental, namely internal freedom, is where no party is permitted to intervene in the manifestation and satisfaction of this right and freedom. Included under the rubric of internal freedom is (1) the right to freely follow and change religion; and (2) the right not to be forced to follow and to not follow religion⁸.

As for social freedom or the external forum (external freedom), in certain specific circumstances, the state is permitted to limit or curb this right and freedom, but with a margin of discretion or strict preconditions legitimated by the Syracuse principles⁹. This group of external freedoms includes (1) freedom to worship alone or in community with others in public or private; (2) freedom to establish a place of worship; (3) freedom to use religious symbols; (4) freedom to celebrate religious days; (5) freedom to determine a religious

8 See Article 18 of the Universal Declaration of Human Rights, Article 18 of the ICCPR, 1981 Universal Declaration on Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, and General Comment No. 22 of UN Human Rights Committee.

9 The Syracuse principles are principles with provisions on limiting and derogating matters in the ICCPR. This came out of a Panel 31 meeting of human rights and international law experts from various countries in Sicily, Italy in 1984. This meeting resulted in a set of standard interpretations of clauses restricting the rights under the ICCPR.

leader; (6) right to preach and propagate religious teachings; (7) right of parents to provide their children with a religious education; (8) right to establish and manage a religious organization or association; and (9) right to deliver religious materials to individuals.¹⁰

Violation of right to freedom of religion/belief is a form of state failure or omission in implementation, such as interfering with an individual's freedom or not protecting a person or community that is the target of intolerance or criminality based on religion or belief. Thus, violation of freedom of religion/belief is an act of removal, revocation, restriction or reduction of an individual's right to and freedom of religion/belief, committed by a state institution, whether by commission or omission.

The human rights terminology related to freedom of religion or belief is intolerance and discrimination. **Intolerance** is derived from a belief that one group, system of belief or lifestyle is better than the others. This can give rise to a number of consequences in terms of lack of respect or exclusion of other people such that discrimination is institutionalized, for instance, apartheid (politics of racial segregation) or the deliberate annihilation of people through genocide. All such acts originate in the rejection of fundamental human values.¹¹

Meanwhile **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, economic, legal, social, cultural, or any other aspects of life."¹²

10 All guarantees of these rights are contained in Article 18 of the ICCPR, UN Human Rights Committee General Comment No. 22, and the 1981 Universal Declaration on Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

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

12 Law No. 39 of 1999 on Human Rights, Article 1.

Discrimination and intolerance based on religion,¹³ is one form of violation of freedom of religion, as meant in Article 2 paragraph 2 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, namely, any distinction, exclusion, restriction or preference (favoritism) 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 wanting to accept a group or expressing and exposing hatred towards other groups based on differences in religion or belief.

Crimes of intolerance and hatred are acts motivated by hatred or bias against a person or community based on gender, race, skin color, religion, country of origin, and/or sexual orientation. Acts of intolerance may take the form of felonies, such as assaults or fights. They may also take a lighter form, such as ridiculing a person’s race or religion. Written communication includes graffiti that shows prejudice or intolerance for a person or community based on hatred. It also includes vandalism and conversation based on intolerance, even if other people consider it to be a joke.

Crimes based on hatred include crimes of intolerance and prejudice intended to hurt and intimidate a person because of their race, ethnicity, country of origin, religion, sexual orientation and other distinguishing factors. Spreading hatred through explosions, arson, weapons, vandalism, physical violence, and verbal threats of violence to instill fear in the victims, making them feel vulnerable to further attacks and feel isolated, powerless, suspicious and

13 Article 1 of the UN 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.”

fearful. Others may become frustrated and angry if they feel that the government and other groups in the community are not protecting them. If a perpetrator of hatred is not prosecuted as a criminal or their acts declared wrong, their crime can weaken the community, even a community with the strongest/healthiest race relations.¹⁴

UNESCO notes some symptoms of intolerance and their behavioral indicators (UNESCO: Tolerance: the threshold of peace. A teaching/learning guide for education for peace, human rights and democracy (Preliminary version). Paris: UNESCO. 1994, p.16.):

Language: Denigrations and pejorative or exclusive language that devalues, demeans and dehumanizes 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: Judgment on the basis of negative generalizations 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 individual or group.

Discrimination: Exclusion from social benefits and activities on primarily prejudicial grounds.

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

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

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 [of people] 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).

The crimes of intolerance and hatred constitute criminal acts with the individual as the object, in connection with freedom of religion/ belief. For this type of crime, responsibility rests with individuals as criminal law subjects. Meanwhile, the state's responsibility is to protect each person from the threat of intolerance and to institute legal proceedings when any violence has occurred.

In the context of Indonesian law, this type of crime is actually accommodated by the Indonesian Criminal Code (KUHP), Article 156¹⁵ of which states:

“Whoever 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 rupiah.

“The term group in this and the following article shall be understood to mean 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, place of origin, descent, nationality or constitutional condition.”

However, in Indonesian legal practice, these articles are actually used for the opposite purpose, namely to ensnare people accused of being heretical and besmirching religion. Yet this article is an instrument that can be used to criminalize practices of intolerance.

In connection with religious intolerance, the SETARA Institute distinguishes between passive intolerance and active intolerance. Passive intolerance is a residue of religious belief as a whole and the interpretation of religious teachings believed to be the only truth by individuals and social beings. Cognitively, they still hold to their religious teachings but as a consequence of social relations with various parties of different backgrounds, like it or not, they have to accept this truth and adapt. In contrast, active intolerance not only sees their religious teachings as the only truth, it also tends

15 This article is a contested area in terms of the interpretation of “hate crimes”. Up to now, use of this article has always been identified with article 156a, which is a product of PNPS No. 1 of 1965, and is actually used to punish people accused of being heretics.

to see those having different interpretations of the same religion as well as the teachings of other religions as wrong and misguided. The next difference, which is most evident among those with passive intolerance and active intolerance, concerns actions. People included in the category of active intolerance not only make statements but also act.

This report on freedom of religion/belief in Indonesia is located within the framework of human rights-based monitoring, especially the Covenant on International Civil and Political Rights. Consequently, the method used to prepare this report is based on the 'violation' approach. Through the 'violation' approach, this report can be seen as an effort to *examine* how far the state performs its generic obligation to respect and protect freedom of religion/belief. The framework for writing this report also refers to the framework for communications developed by the UN Special Rapporteur on freedom of religion/belief.

Referring to the explanation of definitions above, there are two ways for a state to commit a violation, namely; [a] by actively acting in a manner that allows for limitations, differences, interference, and or hindering an individual's enjoyment of freedom of religion/belief (*by commission*); and [b] by allowing an individual's rights to be violated, including by allowing a crime to be committed by an individual without any judicial proceedings (*by omission*).

Apart from documenting violations of freedom of religion/belief committed by the state, this monitoring also documents crimes that relate to freedom of religion/belief being committed by citizens against other citizens. Such citizen acts generally include [a] crimes taking the form of burning down houses of worship, intimidation, physical violence, and others; and [b] acts of intolerance.

Within that framework, this monitoring report is broken up into four categories of violations with different legal subjects and responsibilities;

- [1] acts committed by the state (by commission),
- [2] acts of omission by the state (by omission),
- [3] crimes committed by citizens, and



[4] practices of intolerance in the community.

For violations in the *by commission* and *by omission* categories of the legal framework, what is at issue is the human right slaw contained in the civil and political covenant and those contained in a number of human rights conventions that have been ratified, plus the domestic constitution and laws that regulate state obligations. Meanwhile, for the category of criminal acts committed by citizens and intolerance, the legal framework that can be used is the Indonesian Criminal Code (*Kitab Undang-undang Hukum Pidana/KUHP*).[]

CHAPTER 2

State Of Freedom of Religion/Belief In 2011

In 2011 the SETARA Institute recorded 244 cases of violations of freedom of religion/belief comprising 299 distinct acts, spread across the 17 monitoring regions and other regions outside the monitoring region. Five provinces had the highest level of violations, namely, West Java (57) cases, South Sulawesi (45), East Java (31), North Sumatra (24), and Banten (12). (See Figures 1 and 2).

Figure 1:
Regional Distribution of 244 Cases of Violations

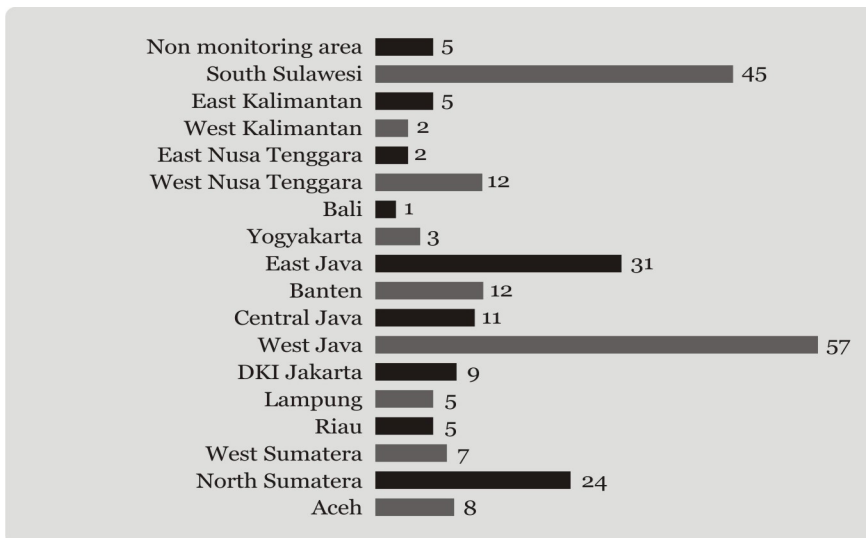
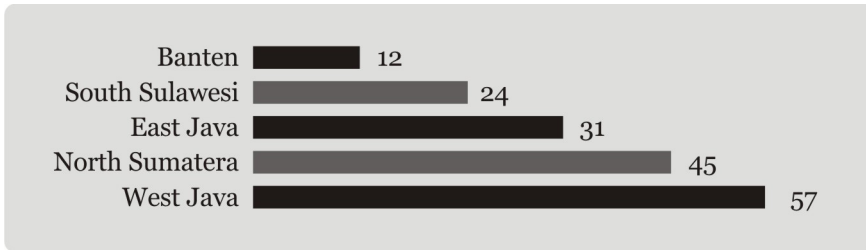
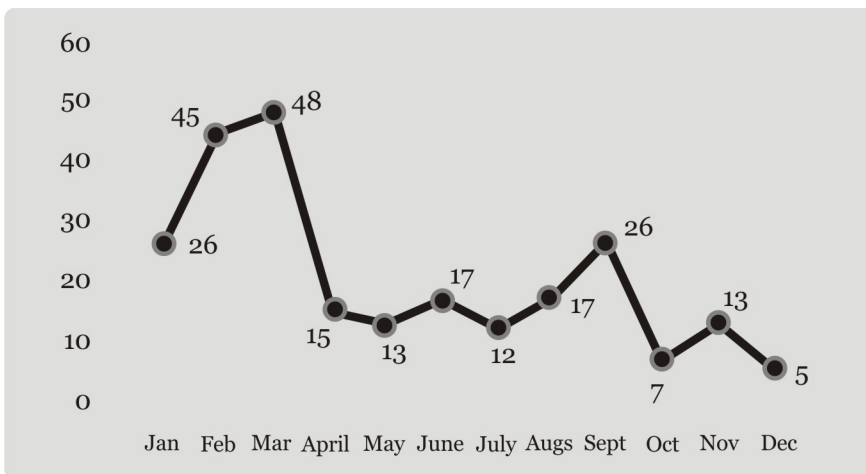


Figure 2:
Five Regions with Highest Incidence of Violations



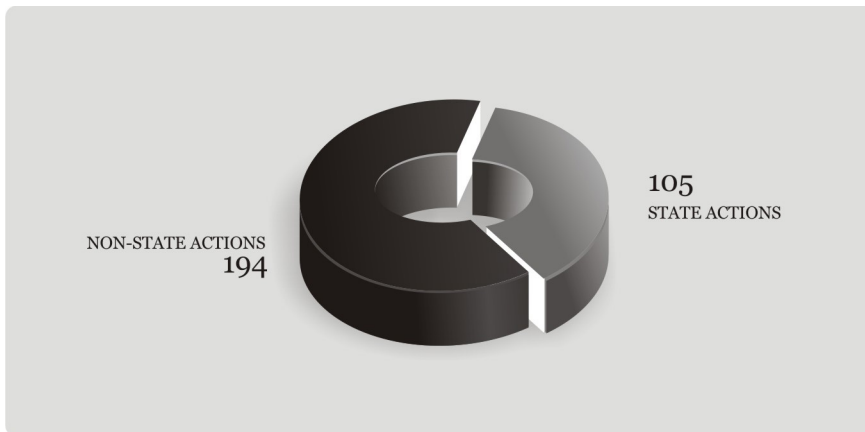
The highest levels of incidents were in March (48) and February (45). The high rate of incidents in these two months were due to the serious impact of the vicious Ahmadiyah congregation massacre in Cikeusik, Pandeglang, Banten and the burning of a church in Temanggung. These two incidents ignited further incidents that were destructive and widespread, and involved state actors. (See Figure 3).

Figure 3:
Distribution over Time of 244 Incidences of Violations



Of the 299 instances of acts violating freedom of religion and belief, 105 state actions involved state administrators as actors. Of these 105 state actions,¹⁶ 95 actions were acts of *commission* and 10 were acts of *omission*. Included among the state actions were provocative statements by public officials that condoned violence. For violations involving the state as an actor, the legal framework of accountability is human rights law, which binds the state as a consequence of the ratification of international human rights covenants and conventions. However, the position in the political framework can be exemplified by the House of Representatives (*Dewan Perwakilan Rakyat/DPR*) in questioning the country's failure to apply the mandate under the Indonesian constitution ordering that freedom of religion/belief be guaranteed.

Figure 4:
Number of Incidents by Type of Actions



The state institutions most commonly committing violations were the police with 40 incidents, followed by the army (TNI)

¹⁶ When calculating the number of actors, the SETARA Institute based this on who exactly was involved in a particular incident. In one incident, several state institutions could combine to take a number of actions. Likewise, state institutions and community groups could also combine to take various actions during one incident.

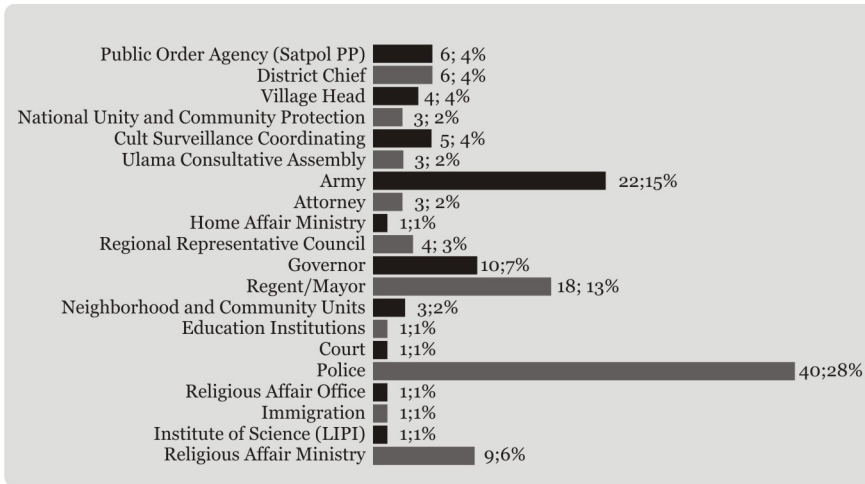
with 22 incidents, Regent/Mayor (18 incidents), Governor (10 incidents), and Ministry of Religion (9 incidents). The remainder are institutions with fewer than six incidents (see Table 1 and Figure 5). The types of violations committed by state institutions varied from provocative hate statements to intimidation, and lack of action when violations occurred. The same was true of policies restricting Ahmadiyah and the refusal to permit the establishment of a house of worship.

Table 1:
Types of Violations by State Actors

Type of Action by State Actor	Number
Condoning	3
Discrimination	1
Intimidation	16
Discriminatory policy	7
Banning religious activities	2
Banning religious sects	7
Prohibiting worship	5
Prohibiting construction of a place of worship	5
Coercing a change in beliefs	2
Omission	10
Breaking up religious services	3
Detention	5
Arrest	6
Persecution	1
Surveillance	2
Destruction of a place of worship	4
Property damage/robbery	1
Expulsion	3
Sealing/closure of a place of worship	6
Assault	1
Deeming a religious sect to be heretic	14

Type of Action by State Actor	Number
Robbery at place of worship	1
TOTAL	105

Figure 5:
State Actors



Of the 299 incidents involving violations of freedom of religion/ belief, 194 incidents involved citizens. All these acts by citizens are categorized as crimes, demanding that the state take responsibility for the legal process. The most prominent incidents took the form of incidents of intolerance (55), deeming a religious sect to be heretic (26), (25) destruction of place of worship, condoning (14), and acts of intimidation (13). While the categories of condoning and intolerance do not have a legal basis for settlement, ethically they may be treated as hate speeches, which with certain limitations can be a matter of criminal law. (See Table 2).

Table 2:
Types of Violations by Non-state Actors

Type of Action by Non-state Actor	Number
Condoning	14
Discrimination	2
Intimidation	13
Intolerance	55
Banning religious activities	2
Prohibiting worship	3
Prohibiting construction of a place of worship	10
Coercing a change in beliefs	1
Burning down a place of worship	3
Blocking road access	3
Breaking up a religious service	7
Murder	2
Arrest	2
Persecution	7
Surveillance	1
Damage to property	5
Destruction of place of worship	25
Expulsion	6
Sealing/closure of place of worship	5
Assault	2
Deeming a religious sect to be heretic	26
TOTAL	194

Perpetrators of violations in these categories are individual citizens or individuals grouped under a mass organization. The groups that most frequently commit these violations are ranked as follows: the public (80 acts), Islam Defenders Front (*Front Pembela Islam/FPI*) (28 acts), Indonesian Ulema Council (*Majelis Ulama Indonesia/MUI*) (28 acts), political parties (9 acts), Islamic Peoples Forum (*Forum Umat Islam/FUI*) (5 acts). (See Table 3).

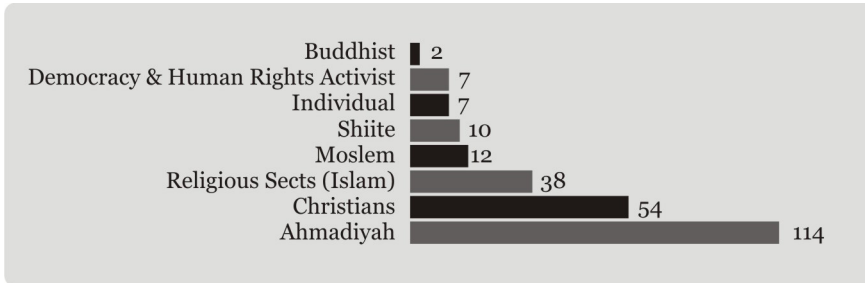
Table 3:
Non-state Actors

List of Non-state Actors	Number
Community	80
FPI (Front Pembela Islam) [Islam Defenders Front]	28
MUI	28
Political Parties	9
NU	7
FUI (Forum Umat Islam) [Islamic Peoples Forum]	5
Business sector	4
HTI (Hizbu Tahrir Indonesia)	3
Muhammadiyah	3
FKUB	3
GAPAS (Gerakan Anti Pemurtadan dan Aliran Sesat) [Movement against Apostasy and Heretical Sects]	2
GP Ansor/Banser [NU Youth Wings]	2
GUIB(Gerakan Umat Islam Bersatu)	2
Individuals	2
IPNU/IPPNU	2
Angkatan Muda Ka'bah [Ka'bah Youth Wing]	1
FAK (Front Anti Komunis) [Anti Communist Front]	1
FKLD (Forum Komunikasi Lembaga Dakwah) [Communication Forum for Proselytizing Institutes]	1
FPU (Forum Peduli Umat)	1
HIPPMI (Himpunan Pemuda Pelajar Mahasiswa Indonesia)	1
ASWAJA (Ahlussunnah wal Jamaah) group	1
LDII [Indonesian Institute of Islamic Propagation]	1
LPI (Laskar Pembela Islam) [Paramilitary division of FPI]	1
Majelis Silahturrahmi Pengasuh Pondok Pesantren Indonesia (MSP3I) se-Jawa and Madura [Assembly of Pondok Pesantren Leaders Throughout Java and Madura]	1

List of Non-state Actors	Number
Nahdlatul Wathan	1
OKI (Organisasi Kepemudaan Islam) Sumut [North Sumatra Organization of Islamic Youth]	1
Pemuda Muhammadiyah [Muhammadiyah Youth]	1
PGRI	1
PII [Organization of Indonesian Islamic High School Students]	1
PMII	1
HMI [Association of Islamic University Students]	1
GPI (Gerakan Pemuda Islam) [Islamic Youth Movement]	1
AMBe (Kelompok Anak Melayu Bersatu)	1
Aliansi Pergerakan Islam (API) Jabar [West Java Islamic Movement Alliance]	1
GMKI (Gerakan Mahasiswa Kristen Indonesia) [Indonesian Christian University Student Movement]	1
Pengurus Pusat Gereja Perhimpunan Injil Baptis Indonesia	1
G3 (Gerakan Garut Menggugat)[Garut Lawsuit Movement]	1

In 2011, violations of freedom of religion/belief most commonly beset the Ahmadiyah sect (114 incidents), followed by Christian churches (54 incidents), and accusations of heresy against religious minority group beliefs (38 incidents). Muslims (mainstream) also experienced a number of violations that generally targeted places of worship, either in the shape of damage or restrictions on building *mushola* or mosques. The remainder beset various kinds of groups holding minority beliefs. (See Figure 6).

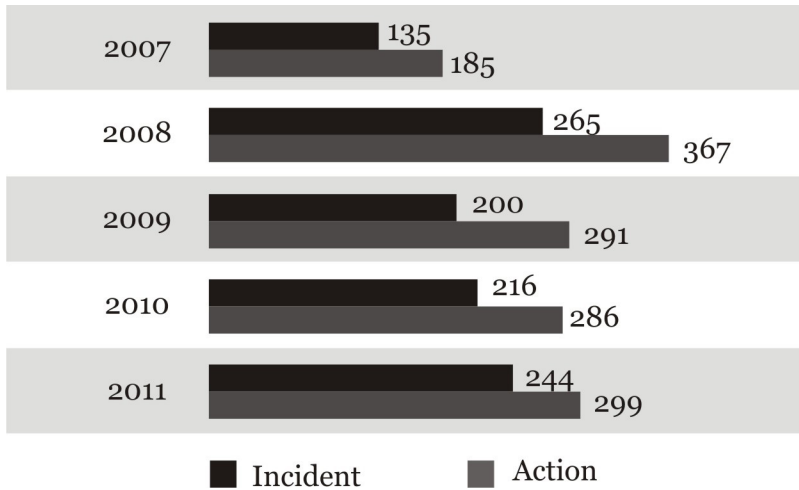
Figure 6:
Victim Groups



As was the case in previous years, dominant incidents involved violations of freedom of religion/belief connected with criminalization of beliefs or [accusations of] heresy against religious minority sects/views; establishment of houses of worship, continuing discrimination against Ahmadiyah, and failure of judicial institutions to handle cases of violence in the name of religion.

Since 2007, the SETARA Institute has been monitoring the state of freedom of religion/belief; the politics of freedom of religion/belief has tended towards a situation where the state appears to lack the authority to deal with cases of violation of freedom of religion/belief. And the trend is for this to become even more destructive, since (decisions of) judicial institutions that should be obeyed are actually being challenged. Likewise, at the executive level what usually occurs is only empty talk and campaign rhetoric on tolerance, without any evidence. (See Figure 7).

Figure 7:
Number of Incidents and Actions in the Last Five Years



The leadership of Susilo Bambang Yudhoyono appears to focus more on speeches about tolerance than on dedicated and measured efforts to create tolerance by giving guarantees of freedom to citizens. Without a guarantee of freedom, tolerance becomes merely political words from a president who is not contributing to advancing human rights. During 2011, President Susilo Bambang Yudhoyono conveyed a message of tolerance no fewer than 19 times at various opportunities. But all these messages left no traces, appearing only to remind a mayor who had disobeyed the law. As political capital, words of tolerance are certainly soothing. However, the monitoring findings for the last five years reveal the facts behind all these words of the Indonesian President.

Apart from the latest incidents during 2011, the political language on religion/belief is reflected in the failure to settle a number of cases involving violation of freedom of religion/belief that have been protracted and repeated, and continue to create public concern. Meanwhile the Indonesian President has reveled in the politics of words. Indonesia's Minister of Religious Affairs, Suryadharma Ali, who was given a mandate to create a situation conducive to freedom of religion/belief in order to create harmony, has actually preferred to

campaign to protect his political constituency by continually raising the Ahmadiyah issue for political capital. Suryadharma prefers to make comments that are not conducive, rather than work to deal with various violence and discrimination involving religion/belief. At least 85 times at events in 2011, Indonesia's Minister of Religious Affairs made statements that were actually counter productive to advancing human rights.

During the last five years, President Susilo Bambang Yudhoyono has failed to handle both national and regional regulations that discriminate against citizens. The mandate of Indonesia's Constitution to eradicate discrimination against any citizen has also been ignored, with indications that scores of discriminatory local regulations have been allowed to be issued. Not only has he failed to revoke discriminatory regulations, SBY has been barely able to put a brake on the production of increasingly discriminatory local legislation against citizens. In 2011, no fewer than seven discriminatory regulations were issued relating to Ahmadiyah, and they were even sponsored by the Ministries of Home Affairs and Religious Affairs. These regulations issued in 2011 complement the discriminatory regulations against Ahmadiyah issued in previous years.

There has been no recordable progress in the 2011 Report on the Status of Freedom of Religion/Belief. The remaining term of Susilo Bambang Yudhoyono's leadership, which is less than three years, should really be sufficient time to make breakthroughs, not only to become a *legacy* of his leadership, but also to give impetus to eradication of discrimination based on religion/belief. Creating a Bill on Eradication of Religious Discrimination, acting against the perpetrators of violence and discrimination fairly through the courts, and providing holistic recovery for victims are a few steps that could be taken by the United Indonesia Cabinet II.

Specifically in the sphere of legislation, the leadership of President Susilo Bambang Yudhoyono can truly be optimized in the deliberative process on the Bill on Handling Social Conflict, the Bill on Mass Organizations, the Bill Discussing the Law on Crimes

of Terrorism, and the Billon Harmony of Religious Communities (which in the context of the SETARA Institute is being proposed as a Billon Eradication of Religious Discrimination). These four Bills all have sections that can be used positively to promote and strengthen tolerance, including various mechanisms for handling many aspects relating to the guarantee of freedom of religion/belief.

Various reports on the state of freedom of religion/belief, plus the facts about violations of freedom of religion occurring during the last five years lead to the conclusion that the regime of Susilo Bambang Yudhoyono has chosen the path of the politics of discrimination in regulating religious life and beliefs. The political face of discrimination is the introduction of political policies that are discriminatory, ignoring discriminatory practices, maintaining a state apparatus that has failed to eliminate discrimination, and denying that discrimination has occurred, including denying factual violations of human rights. At the same time as practices of political discrimination are being displayed, there is pride that during his leadership (which has followed political discrimination) there have been no meaningful human rights violations.[]

CHAPTER 3

Range of Discrimination and Violations of Freedom of Religion/Belief

In chapter III, the SETARA Institute presents special reviews of several selected cases occurring in 2011. The purpose of this review is to give the whole picture about incidents that have quite serious and far-reaching consequences. The text for this chapter has been prepared by various activists for freedom of religion/belief who were specially invited to write about the cases chosen by the SETARA Institute.

The discussion in chapter III illustrates that violations of freedom of religion/belief do not always only afflict certain groups such as Ahmadiyah followers and Christian churches, which have been the most vulnerable up to now and often suffer disruption. Discrimination and violation of freedom of religion/belief also targets followers of Baha'i, Salafi followers in West Nusa Tenggara, Muslims in Bali, and Buddhists in Medan. The discussion in this chapter confirms the core findings of the analysis on the state of freedom of religion/belief in 2011, namely, affirming the politics of discrimination under the regime of Susilo Bambang Yudhoyono. Violations of freedom of religion/belief, aside from being encouraged by groups with increasingly solid aspirations of intolerance, are also

caused by a country that still chooses the politics of discrimination in carrying out its constitutional mandate to guarantee freedom of religion/belief.

The first article on Discrimination and the Paradox of Islamic Sharia Enforcement in Aceh was written by **Azhari Aiyub**; Criminalization of Baha'i Followers in Sidorejo, East Lampung was written by **Syarif Abadi**; Attacks on Salafi Followers in Mesanggok Village, West Lombok, West Nusa Tenggara written by **M. Bahrun**; Civil Disobedience on the Legality of the Establishment of GKI Taman Yasmin in Bogor, West Java was written by **Agnes Dwi R.** Next, the difficulties facing residents of North Minnehaha in building a mushily and installing mushily attributes, was written by **Apridon Zaini. Rochmod Onasis** writes about Discrimination Against Kaharingan Followers in Central Kalimantan. The reconstruction of the Temanggung Incident was written by **M. Irfan.** And the continuing discrimination against Ahmadiyah as an impact of the Cikeusik attack was written by **Dewi Nova.** An article on the voices of Ahmadiyah victims has been published separately in the book *Berdiri Di atas Kaki Sendiri* [trs. *Standing on Their Own Two Feet*], published by Pustaka Masyarakat Setara in 2012. Chapter III ends with a discussion of cases of Criminalization of and Violence against Shiites in Sampang, East Java, written by **Akhol Firdaus.**

1. Discrimination and The Paradox of Islamic Sharia Enforcement in Aceh

Aceh is the oldest nation at the western tip of Sumatra that once straddled the two shores of the Malacca Strait in two senses. *First*, as a political strength in a region that controls trade between two continents, and as one of the most important economic distribution points since the start of the 17th Century after the leaders of Malacca came fully under Portuguese control. *Second*, as an initial gateway for the spread of Islam, this flowed across the Archipelago. This nation has long experience in the use of religion as a political and

economic force. During the first half of the 18th Century, the wealthy – organized clans of traders –exploited issues of identity for their economic and political interests. The rise of four Aceh women to seats of power at that time occurred in the shadows of this cartel. These traders sought a decree (*fatwa*) from Mecca to prevent a woman taking control and becoming a ruler who they considered a threat to their economic and political interests. Islam also became the determining factor when this region became involved in a long war with the Netherlands. Jim Siegel¹⁷, an anthropologist from Cornell University, saw that the *jihad* then occurring in Aceh was very different to the understanding of jihad in modern-day Palestine, or the jihad relating to the present-day struggle against the United States. Jihad in Aceh did not depend on control of or by a group or organization and its head. Rather, it is a concept born and planted naturally in individuals one by one. People who were unknown and nameless plunged into this war, coming from diverse backgrounds. *Ulema* who avoided the war were insulted by everyone, even by people lacking sufficient knowledge about religion. Nevertheless, the Dutch occupation was considered by the people in Aceh, in the context of this war, as a prerequisite forgoing to heaven. In other words, without the “infidels”, who had changed from traders to aggressors, they would have had no reason for engaging in the holy war (*jihad*).

The rising prominence of the role of religious-based organizations, in this case *Persatuan Ulama Seluruh Aceh* (PUSA), began to be seen at the end of the rule by the Dutch Indies. The Class Revolution in 1946-1947 was mobilized by this organization, and became the beginning of the end of feudalism there, and a change in the distribution of economic and political power from the landlords (*Uleebalang*) to the *Teungku* (Islamic scholars). Seven years later this organization played a role in launching a rebellion aiming for an Islamic State of Indonesia under Islamic Law. The Free Aceh Movement (*Gerakan Aceh Merdeka/GAM*) that exploded in 1978

17 Interview with writer in 2009

did not carry religion as its political ideology, although it could not be entirely separated from the influence of Darul Islam (DI).

The application of Islamic Sharia in Aceh cannot be separated from the historical framework above or – as we will see from the discussion that follows – how Islamic Sharia, which was originally used as a political balancing act in facing the influence of GAM, metamorphosed into a bargaining tool for the local political elite in establishing their influence.

The destruction of PUSA and other bases affiliated with DI/TII, which continued while the New Order was in power, determined the political orientation of Aceh –naturally fully represented by the party elite in Jakarta. Islam as the most basic identity became a less important factor and was only represented by political parties. The United Development Party (*Partai Persatuan Pembangunan/PPP*), which was of an Islamic color, benefited most from this crisis, while the party of the government(*Golkar*) almost never won while there were general elections in Aceh. At the tedious elections held in these decades, Aceh was the arena for a political battle in the truest sense.

The strengthening of GAM's position at the end of the 1990's changed the political system in Aceh, where identity appeared to find the clearest spokesperson in Islam. According to Affan Ramli, a postgraduate student at Malaya University, the background to this rise was envisioned as the people's desire to restore Islamic sovereignty after it had been sidelined for so long under Indonesia Raya. What had been lost during this process were the symbols of Islam close to the lives of the Acehnese. But despite this, to GAM, Islam is just a part of what they consider to be Aceh's identity. In other words, from this perspective, while not achieving independence, Islam in Aceh is almost indistinguishable from the forms of Islam in other parts of Indonesia.

A decade ago, to stem the influence of GAM and demands for independence and a referendum, the government of Abdurahman Wahid implemented Islamic Sharia in Aceh. The government of Megawati enacted this regulation in 2003. Affan believes that this

is the crux of the issue, since Islamic Sharia in Aceh is not based on the political aspirations of the people. “Instead,” according to Affan, “it is a result of negotiations among the political elite.”

Until peace broke out in 2005 between the Government of Indonesia and GAM, the Islamic Sharia project in Aceh was almost unachievable. *First*, was the paralysis of the bureaucracy. *Second*, at that time the local political elite controlling the government saw that it was hard for Islamic Sharia, which was really shaped by Jakarta, to compete with the efforts to purify identity that GAM was trying to achieve. The entry of GAM into the local political arena after the 2006 Election allowed Islamic Sharia to become talked of as a new identity for post-conflict Aceh.

Based on a 2010 census report by the Central Statistics Bureau (BPS), the total population of Aceh was 4,494,410. People living in villages (71.88%) outnumbered people living in cities (28.12%) and the population was distributed across 23 districts and cities. In implementing Islamic Sharia, cases of violations of Islamic Sharia occurring in cities are generally handled by a state institution. This state institution is the Sharia Islam Service Office (*Dinas Islamic Syariah/DII*). Dinas Islamic Syariah has Sharia police, who are called Wilayatul Hisbah (WH), and a judicial body called Mahkamah Syar’iyyah [Sharia Court]. WH was later placed under the Civil Service Police Force (*Pamong Praja/PP*) and the Fire Brigade. In rural areas, sharia violators often face customary law (*hukum adat*). They are generally judged by villagers or local traditional leaders where the violation took place. This recent strengthening of the position of customary law has trapped Islamic Sharia in the framework of an understanding that it developed itself and which became vague in its application. A unique case concerned a couple committing incest in Susoh sub district, Southwest Aceh in September 2011, which relates how nervous Islamic Sharia becomes in the face of vague rules, as well as a dependence on formal law that has been imperfectly adopted. The apparatus to enforce Islamic Sharia there was overwhelmed in searching for a legal basis to ensnare this couple. Muddasir, as the Chief of Public Order Agency

(*Kasatpol PP*), Wilayatul Hisbah (WH), and the Fire Brigade (PK) of Southwest Aceh, as reported on the *Aceh Tribun news* website (September 15, 2011), said that they had difficulty handling this case because the Criminal Code (*Kitab Undang-Undang Hukum Pidana/KUHP*) does not regulate incest and its sanctions in detail. Consequently, sharpie enforcers eventually returned this case to be handled by customary leaders in the couple's village. The two perpetrators were eventually banished from the village and banned from ever returning unless a member of their family dies, and even then only for ten days.

This case presents two fundamental contradictions. *First* is the understanding of the scope or limits of sharia itself. The case of fornication falls outside Sharia law only because the category is sexual relations. Legal responsibility becomes more complicated because the sexual category is extremely broad, encompassing human relations with animals, while fornication as understood by this law is sexual relations between a woman and a man who are not married (*muhrim*). *Second* is how Islamic sharia 'appears' to still depend very heavily on procedural or formal law. Meanwhile, in the punishments meted out against those accused of being guilty, Sharia law does not refer to Procedural Law. In most cases of flagellation, the process of finding someone guilty of violating sharia law is not conducted through a fair judicial process, as is applicable under formal law, since the accused has no opportunity to defend himself/herself, because Sharia Law does not offer that facility. That contradiction will be discussed in the next part of this report.

Based on the 2010 National Census, Aceh is the seventh poorest province of Indonesia, with a poverty rate of 20.98%. This figure exceeds the national poverty rate average of 13.33 percent. Data released by the State Ministry for the Development of Disadvantaged Regions in 2010 show that almost half of the districts in Aceh are poor and underdeveloped. One result of the agreement between GAM and the Government of Indonesia to end the 30-year war there was that Aceh would be given economic as well as political compensation, in order to address its under development and rehabilitate sectors of

life that were destroyed during the war. This agreement was set out in article 183 of Law No. 11 of 2006 on Aceh Governance (UU PA). The Special Autonomy Fund (*Dana Otonomi Khusus*, or *Otsus*) is used to finance infrastructure development and maintenance, community economic empowerment, poverty eradication, and education, social and healthcare funding. In three years, Aceh received 16 trillion rupiah through the Special Autonomy Fund. But as indicated by the data above, welfare distribution in Aceh is unequal. Welfare funds are used to achieve a political oligarchy impersonating a democracy. GeRaK, an Anti-corruption NGO in Aceh, indicates that the Special Autonomy Fund is used for the benefit of local leaders planning to participate in the next regional head election (*Pilkada*)¹⁸.

Apart from a church burning that occurred in Aceh Singkil in 2006, in the last five years we have not heard of any cases hampering the freedom to practice a religion for followers of religions other than Islam. Most baffling is that followers of Islam in Aceh appear threatened by missionaries – also referred to as shallow creeds– from other religions. Protests against apostasy have occurred for almost four years after the tsunami, especially efforts by missionaries considered to be riding on the distribution of humanitarian assistance. In July 2010 the masses ran amok in Meulaboh, West Aceh against a family from the United States who were working on a humanitarian mission. The masses accused them of carrying out acts of apostasy against Muslim people. People who were baptized claimed to have been hypnotized, causing them to lose awareness.

These apostasy issues caused the Aceh Government to implement a frontier program to prevent the further spread of shallow creeds. The frontier here was a second-level region geographically close to North Sumatra. Related to this issue, when Friday sermons (*khotbah*) were held at Lamgugop Mosque in Banda Aceh in September 2011, Aceh Vice Governor Muhammad Nazar made news that surprised all parties. He released a report stating that

18 www.analisadayly.com (21/09/2011)

during the last ten years, 20,000 Muslims in Aceh had changed religion and become apostate.¹⁹ This news made the public angry, and they questioned the truth of this information. The next day, Nazar reduced this figure to only 4,000, adding that he had the data on Muslim Acehnese who had changed religion. Five months before issuing this statement, Muhammad Nazar attended a public flogging of 19 individual violators of Islamic Sharia in East Aceh²⁰. Aceh will hold regional elections (*Pilkada*) at the start of 2012. Muhammad Nazar is a candidate for Governor put forward by the Democratic Party and the SIRA Party.

In the last year, regional head election candidates competed to use religion as a means to create sympathy among voters, and became very sensitive about anything involving matters of shallow creeds. Irwandi Yusuf as incumbent Governor of Aceh, and candidates for the next governor as independent representatives, put up several giant banners saying that he would appear in public to explain developments inheres in Aceh not long after this issue came up. Mawardi Nurdin, Mayor of Banda Aceh and Head of the Aceh Democrat Part, and a candidate for mayor at the next Regional Head Election (*Pilkada*), was stained even further. This mayor was among a mass of thousands of high school students and teachers demonstrating against heretical teachings in Banda Aceh.

Teuku Jafar Sulaiman, an activist from Forum Islam Rahamatan Lilalamin (*Firli*), felt that efforts by the political elite to ride on religion or politicize Sharia Islam led to muzzling and restraining diversity and differences within Islam. According to him, this was because of a political monopoly on interpretation that is practiced and framed by political groups and political parties to garner sympathy and support from the masses. “So Islamic Sharia in Aceh will forever remain a political football,” says Jafar.

For Affan Ramli, acts like this one by the mayor of Banda Aceh

19 <http://harian-aceh.com/2011/09/24/20-ribu-warga-aceh-pindah-religion>

20 <http://atjehpost.com/nanggroe/daerah/2575-wagub-saksikan-19-warganya-dicambuk.html>

are aberrations, where he participates in provoking the masses to act anarchically against the followers of Millata Abraham. For this action was taken based solely on political considerations, and not *syar'i*. *Syar'i* considerations require a person who understands (controls) *ushul fiqh*, and are based on the knowledge he has about *ushul*. Affan recommends that politicians such as Mawardi, who are blind to *ushul fiqh*, should take steps to respond to this case and play a fair role in government. "You see, it is very odd, suddenly he joins in provoking the masses to act anarchically against the Millata Abraham group," says the author of the book *Merajam Dalil Syariah* [trs. *Stoning Sharia Arguments*].

The same thing is proposed by Hendra Fadli, Director of Kontras Aceh. He says that a public official must act constitutionally by referring to the existing legislation. "If there are officials who conclude that the Millata Abraham group is illegal, in the sense of its existence being prohibited by law, then this needs to be processed/proved by a valid court," says this attorney.

General Conditions in Aceh in 2011

Regulation (*Qanun*) No. 11 of 2002 on Implementation of Islamic Sharia in Aceh, gives the Aceh Ulema Consultative Assembly (*Majelis Permusyawaratan Ulama*/MPU) the authority to identify and determine the criteria for heretical sects. Chapter III Article 6 of this *Qanun* states: *Heretical forms of understanding and or sects shall be stipulated in an MPU mandate (fatwa)*. On July 6, 2011 the MPU issued guidelines for identifying heretical sects to protect the people and their creeds, as reported on this authority's website. Two months previously, a Gubernatorial Regulation (*Pergub*) No. 9 of 2011 was issued on the Banning of Millata Abraham Sect Activities in Aceh. The Aceh government and Muspida (*Musyawaharah Pimpinan Daerah*, or Local Leaders Assembly) also banned 14 other religious sects. On March 24, 2011, Banda Aceh Municipal Government issued Regulation of the Mayor of Banda Aceh Number 11 of 2011 on Management of Activities by Heretical Sects and Shallow Creeds

within the Municipality of Banda Aceh.

On the one hand, the issuance of these regulations is an inevitable consequence of implementing Islamic Sharia in Aceh. The religious authority, in this case the Aceh Government, wants to protect the purity of the religion of Islam with the most important elements of applying sharia being guided by the *Syafii* sect, rather than beyond that definition. On the other hand, the application of Islamic Sharia has changed Aceh into a province that appears to be regulated by Islam in terms of both legal aspects and the social environment, promoting typical Islamic understandings that spread and develop this sect across the region.

The banned Millata Abraham, to take an example, is spread by people from outside Aceh province. The government has claimed that Millata Abraham uses money and hypnosis to attract its followers. A commonly heard motif concerns the issue of proselytizing. Nevertheless, vision is the most important thing for such sects to attract interest among followers, especially to differentiate them from *mazhab Syafii*, which is recognized by the government. There is actually a very strong religious awareness in groups of young devotees in Aceh, causing these religious sects, which are deemed heretical, to be able to develop relatively quickly. Millata Abraham has developed on campuses in Banda Aceh. Most followers of this sect are students.

Followers clearly want to have a vision of freedom that they have not obtained from the Government or the religious authorities that are the main partners of the government. Politics in a period of transition (an understanding created to distinguish post-conflict and peacetime Aceh) has made the government distant from the multitudes, while for the time being religious sects can be seen as resulting from the anxiety of youth.

Meanwhile, the period of transition illuminates how the political elite competed to exploit Islam as an identity in order to attract support. And in Aceh the class of Muslim scholars (*ulema*) and their students (*santri*) were fully aware of this. In the previous decade, the

New Order saw the identity of Islam in Aceh as dangerous, and the regime marginalized the role of the class of Muslim scholars (*ulema*) in society to limit them to religious boarding schools (*dayah*) and no broader. In the opinion of Affan Ramli, the strategic role of religious leaders in Aceh could only be allayed in an atmosphere where Aceh applied Islamic Sharia. “The poor state of the Sharia concept being applied was not an issue. It is very difficult to revitalize the role of religious leaders if the only law recognized in Aceh is positive law and customary law,” says Affan. The role of *ulema* and their students appears to have strengthened. But the revival of this group is always under the shadow of the secular political forces that they support. The option of enforcing Islamic Sharia by *Kaffah* was codified by the political elite to make it a method of negotiating with this group. Affan says that even though many *ulema* do not agree with the concept of Islamic Sharia now being applied by the Aceh Government, they will still support it fully because it is tied to their political future.

In this context, according to Azriana Rambe, Coordinator of Women Humanitarian Volunteers (RPUK), the arena has expanded to using women’s bodies as another means of politicization of religion in Aceh. Azriana cites the issuance several Qanun intended to control women’s bodies, such as the Anon on Skirts in West Aceh. Azriana says that these rules usually appear in regions where the government is performing poorly, is corrupt, and public services are not working. “In regions with Muslim majorities, such as Aceh, the issue of religion is most effective at applying social control within society concerning the poor state of government performance,” she adds.

On the other hand, negotiation boundaries such as these are then protected by the strong flow of government support for religious boarding schools (*dayah*) and religious education in Aceh. Special Autonomy funds are also distributed for the purpose of enforcing Islamic Sharia through the Dayah Education and Management Agency (*Badan Pembinaan dan Pendidikan Dayah/BPPD*). Over three years, BPPD received a budget of 551.2 billion rupiah. These

funds were used to revitalize *dayah* (*pesantren*, Islamic boarding schools). In April 2011 BPPD released data stating that throughout Aceh there were 1,965 study centers; 210,000 students; and 11,000 educators. Of these, 765 had the status of *dayah* (traditional *pesantren*).²¹ These figures are the targets of the Special Autonomy fund development program.

Regarding these figures, Mukhlisuddin Ilyas, writing on the BPPD website, gave a comparison.²² He compared them with the figures found at other institutions. Based on data at the Department of Religious Affairs, there were 879 *dayah* in 2007. While according to Rabithah Taliban Aceh (RTA) – an alliance of *salafi* students – the figures are higher, with 900 *dayah*. This difference in totals is considered by the writer to be extremely political. But he does not explain further what it is that he considers political. Whether it is the lack of consistency in these totals – but recorded differently at government institutions – due to a conspiracy to access funds to revitalize *ayah*, or whether the *dayah* established by politicians and their followers are not only intended to seek support from the *santri* group but are also a familiar but reprehensible means of utilizing these funds. MaTA, an anti-corruption NGO in North Aceh, contends on its website²³ that one BPPD project, namely sending people on comparative studies to Saudi Arabia, with a budget of 954,660,000 rupiah, constitutes political imaging of certain officials approaching the 2011 regional head elections.

Further research is needed to see how these conflicts occur in the lower classes during this period of political transition in Aceh, whether conflicts occur as a result of differences in religious sects within society. Or whether there is no connection with the falling level of tolerance, which is actually a result of inequalities in

21 http://waspada.co.id/index.php?option=com_content&view=article&id=184908:aceh-miliki-210-ribu-santri&catid=13&Itemid=26 (last accessed on November 27, 2011)

22 <http://bppd.acehprov.go.id/index.php?kategori=fikrah&linkjudul=mukhlisuddin-ilyas> (last accessed on November 27, 2011)

23 <http://www.mataaceh.org/rudi-779-studi-banding-badan-dayah-kuras-apba-rp-954-juta.html> (last accessed on November 27, 2011)

economic distribution. However, several months before the local regulations against shallow creeds and heretical sects mentioned above were issued, competition between *teungku* (a person deemed to understand religion) arose in a case involving Teungku Ayubandhis followers being banished. Teungku Ayub is a preacher in Lhok Mane village in Bireuen. He started sermons that were followed by participants from outside the village. His teachings appeared to be held in private. In Aceh, sermons are generally public events. On the evening of March 22, 2011 villagers went to surround the preaching site. The masses indicated that Teungku Ayub's sermons were the center for the spread of heretical sects. The masses burned down the preaching site, a pick-up truck, and motorbikes, and injured a follower of these teachings. From there, the masses moved on to other places. The trigger for the masses to run amok was that Teungku Ayub had expelled the Village Secretary (*Sekdes*) when he had come to the teachings the day before. After this incident, the masses asked for Teungku Ayub's teachings to be closed and for him to leave the village.

This case was handled by the local police and MPU. Initially, the MPU agreed with the locals that Teungku Ayub advocated a heretical sect. But after the MPU tried him and his followers, it found no elements of heresy in the teachings of the Teungku, and the MPU only made a recommendation stating that this sect approached deviance. The MPU did not apply the existing criteria used to guide the assessment of heresy, as reported by Gema Baiturahman (31/03); instead, Teungku Ayub didnot admit any wrongdoing. Gema Baiturahman wrote: "This is different to the teachings of Millata Abraham some time ago, where he admitted he was wrong, acknowledged and then repented. Let's wait for the final evidence from the government."

Not only was the government unable to prove that the teachings of Teungku Ayub were deviant, North Aceh PB-HAM coordinator Zulfikar told *The Aceh Globe* (April 26, 2011) that the government was deemed to have failed to provide protection to its citizens. Furthermore, the statement added that the Teungku Ayub case

had been brought into the political realm by village figures located opposite Teungku Ayub and his followers. Of course, after the verdict was issued stating that it was not heretical, Teungku Ayub was not permitted to return to the village. This prohibition was approved by Muspika. And PB-HAM deemed this action as tending towards violence in the name of religion.

This year, competition at the citizen level has triggered similar acts, with heresy against victims often becoming an argument for banishment from a village or even murder, while the state cannot provide protection to the other party and ignores its responsibilities. The MPU also banished Teungku Din, a religious teacher in Gampong Lhung Asan, Blangpidie in Southwest Aceh. The Serambi Indonesia website item (12 July) titled “Southwest Aceh MPU Banishes Teungku Din” mentions that the reason for the exile was that the yellow scriptures being taught were difficult for students to understand. Teungku Din himself denied this accusation, which did not make sense. As quoted by Serambi, Teungku Din said, “Actually, *Lillahi Ta’ala* teach knowledge in accordance with the guidance and teachings of Islam. There is absolutely nothing that deviates from the teachings of the Apostle.”

The eviction and murder of people accused of practicing dark arts is part of a broad reaction amidst a political strengthening in the application of Islamic Sharia as well as an effect of its politicization. On February 21, 2011 a shaman called Ilyas was set on fire by a crowd in North Aceh. Villagers accused this shaman of deviant behavior and practicing dark arts. He was dragged to the *meunasah*, persecuted and then set on fire. This tragedy is reminiscent of the killing of witches and heretics during the Dark Ages. Dukun Ilyas died, but in their decision, the Panel of Judges released three accused from all legal charges (www.atjehpost.com/23/11). As reported by *Atjeh Post*, the judges considered that the accused had not been proven to have committed the crimes charged by the public prosecutor’s office –neither the primary indictment nor the ancillary indictment. In October this year, Abdullah from Jeumpa sub district, Bireuen District suffered a similar fate. He was evicted from the village and

his house was burnt down by residents. He had been accused of bewitching Darul Islam students in the sub district.

Traditions and Mob Running Amok

How society interprets Sharia Law is apparent in the handling of immorality cases in villages in Aceh. The meaning of immorality in this context is violation of sharia taking the form of fornication, *khalwat* (a man and woman who are not *muhrim* being alone in the same room), drinking alcohol, or gambling. In most cases, before village leaders (*Tuha Peut*) can refer such a violation to WH, the masses first take sanctifying action against those accused of fornication or *khalwat*. The masses consider such acts to have polluted the sanctity of their village. These sanctification acts take the form of physical violence; cursing; and flushing the accused in sewer water.

Reza Idria, a teacher at the State Institute for Islamic Religion (IAIN) in Aceh, considers such acts of vigilantism to be caused by at least two factors. *First*, because psychologically the community feels that it has the legality to mete out punishment, which is because there are people who misunderstand the meaning of the version of Islamic Sharia Kaffah campaigned for by the government, so they feel that they also have the authority to try any case that occurs relating to anything that can lead nonreligious beliefs. *Second*, the community reflects its slack of faith in the law made by the government. Sanctions and their execution are not what is expected by the people for this category. “These two things are contradictory from the perspective of a triggering motive,” says this anthropologist who graduated from Leiden University. “But they give rise to violence as a result of their interpretation of the authority’s version of sharia policy.”

According to Reza, regarding the second factor, there is good reason for the community does not believe in justice under Sharia Law, causing them to sanctify the village themselves. Based on the experience of sharia violators, this is generally because of the law enforcement apparatus itself. Of course, no one is free from

such cases. But what the people charged was unfairness by sharia stakeholders in enforcing this law. In 2007 in Sabang, a District Court judge was caught by citizens in seclusion with a woman who was not his wife. The Head of Sabang District Court promised to remove this judge. However, following the case, nothing further was heard from the Sharia Court on flagellating this judge. In fact, according to a report in *Tabloid Modus*²⁴, the judge was transferred to Yogyakarta.

In Tapaktuna Sharia judge was fired for engaging in obscenity. This case occurred in November 2011. The judge should not only have faced charges for violation of the code of ethics, the lower classes, who are most often injured and become the targets of the flagellation law, are still waiting for the flagellation ceremony for the judge. Wilayatul Hisbah and the Sharia Police are not without fault. In East Aceh at the start of 2010, three Sharia police raped a woman who they accused of engaging in immoral acts.

Affan Ramli views these acts of playing judge in the name of tradition as a trend coming from the increasing influence of “anti-vice” behavior in the style of “extreme *salafi*.” Suddenly, the public is challenged by the invitation of *amar ma’ruf nahi munkar* in its narrow sense,” says Affan.

Priests and Islamic Sharia stakeholders in Aceh also see these symptoms as disquieting. This concern was heard at an Islamic Sharia Office Coordination Meeting (*Rakor DSI*) in Aceh on September 28, 2011. Officials at the district Islamic Sharia Office appeared desperate in the face of mass action by the villagers in treating sharia violators in humanely, saying that such acts were outside the traditional framework as it is understood in Aceh. They forget that such acts are an impact of this injustice of the law and a broader consequence of the loss of public confidence in their power to enforce Islamic Sharia. Affan says that this mass action was a result of campaigning and education by the sharia stakeholders

²⁴ *Tabloid Modus*, No.06/TH. VI Week IV, May 2008 – *Sekali Lagi Cerita Khalwat di Negeri Shariah* [trs. *Another Story about Seclusion in the Land of Shariah*].

themselves, where politicization has actually only exacerbated acts of violence in cases of Sharia enforcement in the community. “But the religious leaders and other members of this elite want to wash their hands, as if these views and actions of the public stand alone, outside the context of their own efforts,” adds Affan.

In relation to this, in determining the position of custom and religion in Aceh, we cannot ignore Snouck Hurgronje, a Dutch orientalist during the war in Aceh. For various reasons, Hurgronje was hated by the Acehnese because he was considered to have divided political forces in Aceh, with the height of this split being the Class Revolution mentioned earlier. According to Jim Siegel, at the time Hurgronje thought there was a very clear difference between tradition and Islam during that period. Religion was controlled by tradition, and could not be said to be above it. “However,” writes Siegel, “at the same time the Acehnese are adamant that there is no difference between tradition and Islam. What was behind, in this case Islam was said to lead the other, tradition. Whatever was set down in tradition was then legitimated by Islam.”²⁵

Snouck broke down the view repeated by Siegel in an atmosphere full of hatred towards Aceh’s ulema, who were the strongest group opposing the Dutch occupation of Aceh. Instead of opposing and correcting Hurgronje, these Islamic Sharia stakeholders in modern-day Aceh actually appear to be confirming the predictions of the orientalist.

Apart from the hope that people act according to the customary rules in treating sacrilegious offenders in villages and that the attitudes of the people is truly reflected in how they look at elite figures, there is a more important and urgent matter for the stakeholders of religious law to consider. This is that they absolutely must provide unconditional protection to those who are accused of moral violations before a court finds them guilty. According to Azriana, acts of vigilantism by mobs matches the experience of the

25 Jim Siegel, in *Islamic Sharia di Aceh, Jurnal Gelombang Baru [trs. New Wave Journal] Issue IV 2009*, Banda Aceh, p. 103.

Acehnese who are accustomed to living under violent conflict.

Azriana sees from the violent action of mobs in the name of tradition and sharpie that the priests – both at MPU and DSI – are not doing enough by just making appeals. According to Azriana, MPU also needs to issue a mandate (*fatwa*) prohibiting acts of violence in enforcing Islamic Sharia in Aceh, and law enforcement officials also need to be willing to enforce the law – even when this does not appear to be popular – in cases of mob vigilantism. “There can be no justification or omission of violent acts, even in the name of enforcing sharia,” he says.

The experience of a professional photographer and his model illustrates the injustice in sharia enforcement in a broad sense. The photographer and the model were caught by villagers while doing a photo shoot at his home, and “customary” action was then taken. The people accused the photographer and his model of seclusion, even though the photographer’s wife was also at his home. The people humiliated and sexually harassed the female model.

Instead of arresting the perpetrators of the sexual harassment and humiliation, the Sharia Court charged the two people under the flogging law. Following pressure from a number of non-governmental organizations, just one of the three perpetrators of the abuse was convicted by Aceh Besar District Court, but they were not tried and ordered to be whipped by the Sharia Court. The incident occurred on January 19, 2011 and while it was not the only case, it received most public attention during the year in highlighting how enforcement of Sharia law does not apply to the bottom layers of society, especially women.

M. Yulfan, a legal practitioner in Banda Aceh, sees from the case described above that the process of finding a defendant guilty is concerned more with spiritual aspects of the community at large. He notes that the law is generally applied by taking into account the prejudices of the people/masses who capture the accused, whether in cases of gambling or seclusion. The main goal of the flogging law in Aceh is to shame immoral offenders. This law is imperfectly adopted

as a positive law, and the purpose of the punishment is contrary to the goals of positive law, namely, to have a deterrent effect rather than to humiliate people.

“As a consequence, people accused of violating Sharia law face ostracism, marginalization, and becoming social outcasts. As soon as a sentence is handed out, the person sentenced immediately loses their social rights as a citizen. This is just like the typical experience of people accused of being communists by the New Order, who had to suffer social stigma,” says Yulfan.

Applying Islamic Sharia, especially against those accused of immorality, makes it prone to cause violations of civil rights. This can occur because Sharia Law does not yet offer the prerequisites, such as an opportunity and a mechanism to defend oneself. It is also doubtful whether the legal instruments in the shape of officers in the field actually understand the legal substance/material of Islamic Sharia. The people of Aceh generally know Islamic Sharia within the customary framework, but they are not all aware of the formal rules governing the implementation of Sharia.

According to Hendra Fadli, in practices of enforcement against cases of immorality in Aceh, what is most commonly violated by the State in terms of the rights of civilians is the right to obtain justice from a judicial process that is free and impartial, and the right to freedom from any form of persecution. “*First*, it concerns the rampant violent actions of citizens. And *second*, there is the absence of legal aid for Sharia violators,” says Hendra, who is also a lawyer.

According to Hendra Fadli there are two elements that have not been met by the State in providing citizens with protection. *First*, Sharia law does not yet have any procedural law. *Second*, Sharia law still prescribes physical forms of punishment (flogging) in public.

“In my view this violates the conventions against all forms of abuse and treatment that are cruel, inhuman or degrading to human dignity,” he says, referring to the Convention Against Torture and Degrading Human Dignity, which has been ratified by the Government of Indonesia (in Law No. 5/1998).

Skirts and headscarves (*jilbab*) are not indigenous to the people of Aceh, although women in Aceh have long chosen this clothing as part of an identity that is separate from the government's version of political commodification of decency, as in the rules recently implemented by the West Aceh District Government. With the issuance of the rule that women should wear skirts, women are no longer treated as sexual objects, instead, the aims to protect those who are vulnerable to sexual crimes.

Azriana sees the issuance of these rules as a form of discrimination against women, besides the fact that only women are held to be responsible for protecting morals, rather than men. When a view like this still dominates most policymakers in Aceh, women will become the main target for unequal enforcement of Islamic Sharia. She says that policymakers should be aware of the different treatment that women will receive from applying Islamic Sharia.

“It is not enough to just say that there is no discrimination since the rules for applying Islamic Sharia apply not only to women but also to men,” she says.

2. Criminalization of Followers of Bahá'í Religion in Sidorejo, Udik Village, East Lampung

As explained on the official website of the Baha'i Religion, the Baha'i Religion was founded in 1863 and spread by Baha'ullah, whom adherents of this religion believe to be a messenger of God. Today, the religion is found in 188 countries and 45 autonomous regions around the world, and has a formal representation at the United Nations (UN). As with other religions, the Baha'i religion is not connected with a particular country. The Baha'i religion is a universal religion.

Likewise, believers also assert that the Baha'i Religion, which stands alone, has vessels for the religion, beliefs, laws, scriptures, worship, and its own administrative system, including marriage, like other religions. The Baha'i religious system has no individual figures or leaders or indeed anyone who becomes a leader of the

religion. Community affairs are governed by Baha'i collective institutions, which are democratically elected each year, and every vote is guaranteed confidentiality. Baha'i elections are grounded inhuman nature and values. Therefore there are no individual leaders or figures in the Baha'i religion.

Some of the basic principles and teachings of the Baha'i Religion include, among others: the Oneness of God; the unity of the human race; the freedom of all humans to search for the truth; harmony between religion and science; equal rights for men and women; relinquishment of all types of religious, social, economic, and racial prejudice; socializing with all faiths with a cheerful and joyous heart; religion should lead to harmony, love and unity; obedience to the government wherever they may be.²⁶

Devotees of the Baha'i faith in East Lampung constitute one group that has suffered violations of freedom of religion and belief. Syahroni, a follower of the Baha'i religion experienced both criminalization and discrimination as a consequence of discriminatory legislation.

According to Mursit, secretary of the village of Sidorejo, Sekampung Udik in East Lampung, since 1994 the public has been aware that Syahroni (*Cak Roni*) was an adherent of the Baha'i religion but had not engaged in any activity to recruit members of the Baha'i religion. The village head had actually received a circular letter from the Ministry of Religious Affairs instructing that Pak Syahroni should not engage in any activity related to the Baha'i religion because (according to Mursit) the Baha'i religion is actually a sect that is banned in Indonesia. However, to most people Syahroni was a person who behaved properly and was active in all village activities, so Syahroni only received a reprimand from the village head and was instructed not to engage in activities of the Baha'i religion.

After living in Sidorejo village for a long time, in 2010 Syahroni

26 www.bahai.org

began recruitment activities. He has now recruited 13 people, consisting of four family heads, i.e., Cak Ut, Cak Kur, Iwan Purwanto, and Cak Roni Syahroni himself. They perform teaching and study activities at home that are attended by about 20 children who live near Syahroni's house. The children are taught Baha'i prayers, including prayers before eating, bedtime prayers, and others. Under the basic tenets of the Baha'i religion, education is compulsory for all children. This is done through child study group activities given by Syahroni and other followers of the Baha'i religion; through education on good manners, quoting from the *Panorama of Activities of the Baha'i Community*. The following is a description of the panorama of Baha'i community activities in the world, although these activities are also open to people from other religions that wish to participate.

Ruhi Institute

The Ruhi Institute consists of a series of courses on a variety of spiritual themes, concerning general topics of Baha'i writings, including a spiritual life, the principles of unity and social progress, the importance of children's education, religion as a process of educating the human race, the special role of youths in society, and the process of spiritual transformation. These courses are conducted in small study groups; there is no teacher in the study group, but a tutor or facilitator helps participants in the learning process. The typical feature of the Institute is that each course is connected with practical activities, so that the concepts studied also contribute to community life. The goal of the Institute is to create a "learning culture".

Mass Prayer

Joint prayer meetings are held so that people can gather together and open their hearts to their Creator through prayer. Both Baha'i prayers and the prayers of other religions can be read out, in accordance with the wishes of the participants. Prayer reminds us

that, whatever our circumstances and background, we are all simply recipients of divine grace.

Child Study Groups

Study groups for children are designed to give children a good moral start, as well as to give them knowledge of religious principles, which are taught through stories, games, prayers and excerpts from the divine Word.

Youth Study Groups

Youth study groups (aged 11-14) are formed to meet spiritual needs and to channel the dynamic energy held by this important group. These youth groups are assisted by an “animator” who is trained to play a facilitation role in this program.

Based on this activity guide, the followers of the Baha’i religion engaged in various activities, including courses and study groups containing children or adolescents. Later, unrest began to emerge when Cak Roni spread his religion among underage children through after-school lessons once a week on Mondays.

* * *

The chronology of the social situation in Sekampung Udik, Sidorejo village was that community life was harmonious before the incident. There was no problem of religion. Then a problem occurred when, with economic disparities, because in this village Pak Syahroni had a prosperous business. He had a store, he made a kind of cooperative. It was just like a shared business, so whoever collected money, whoever needed money, borrowed from there, but at low interest, like a cooperative; although it was not a legal entity, the system was similar to a cooperative. And the business flourished.

Meanwhile, at the same time the influence of the status of inter-religious relations began a cleavage at the national level, meaning that hard line groups started to appear again, began to have space there, so then it became an issue there, since some of the activists still had connections with the Warsidi movement in Way Jepara, East Lampung during the 1980's. So they were children or friends of people who used to face problems in Way Jepara.

To cut a long story short, informal activities were held there (in Sidorejo), not inviting anyone, not encouraging anyone rather, this was an initiative of the children there (in Sidorejo), of the teenagers. They were teenagers because they were still at junior high school. They actually taught the children on Sundays, like making a weekly activity. In Catholicism this would be like Sunday school. But while Sunday school is guided, meaning that it is directed specifically to religious education, in the Baha'i religion it is not. But they were learning about good manners, and there were the guidebooks, indeed the Baha'i religion has guidebooks that are actually used in many places and are inclusive in nature. Why inclusive? Because these books include, for example, opening events, opening with a prayer according to one's own religion. Then there is the material, which is more about good morals and manners; for instance, politeness, respect for parents, cleanliness, the culture of waiting in line, getting along with friends, and so on.

It was then all transformed into the form of a game and telling a story, that kind of skill. There were three teachers in all – two from the Baha'i faith and one Muslim. In practicing these activities, they always started with prayers and ended with prayers, with Muslims praying the Islamic way, and the Baha'i in their way. Because these activities took place in a village, which was a small world, they quickly caught the interest of the local people. Each week more and more

children participated. And more and more people also wanted to teach there, both from the Baha'i faith and from Islam.

There was nothing in these activities that taught the Baha'i religion, taught Baha'i or other prayers, but it became a problem when people became aware of these activities, which were initially informal. Pak Syahroni and Iwan Purwanto never knew of them, never controlled them directly, and were never considered the initiators of these activities. Then they held a demonstration at the home of Pak Syahroni, asking that the activities be disbanded. Then a meeting was held in the village hall. At the meeting, Syahroni should have provided clarification, but the issue had already grown. The people demanded that Pak Syahroni should convert back to the religion of Islam, and if he refused, he must leave the village.

Furthermore, he had to stop the study activities, stop his business and other activities. In response to this demand, Pak Syahroni refused, especially on the first two (to change religion and convert to Islam), as he considered these two points to be his right as a citizen. The situation increasingly went out of control because the local government apparatus, including the local village head, the police and others, preferred to go with the strongest flow, not stand in the middle. Then Pak Syahroni was reported to the police. Initially the police only secured Pak Syahroni for a week, but then this was changed to detention based on letter number Sphan/52/VI/2010 dated June 8, 2010. (Julius, S.H., Pak Syahroni's attorney)

An issue arose when, just before eating chicken noodles, a child offered up a prayer using an enunciation taught at the study lessons held at Cak Roni's home. When asked by the noodle vendor what prayer it was and who taught him, the child replied it was a prayer

before eating that he was taught by *Mbah* Roni or Syahroni. The noodle vendor was startled and then informed the child's parents, and this is what led to unrest in the community. The parents of the child who had had the lessons reported this to the village official and religious/community figures for the matter to be resolved. Then the village official and village figures, in the presence of hundreds of people, summoned Syahroni to the village hall to ask for an explanation about the Baha'i religion and the "study" activities conducted at his home for children in the neighborhood.

Hearing the request from figures such as these, Pak Syahroni refused to acquiesce, saying he would stay in Sidorejo and continue to follow the Baha'i religion. Because there was no point of agreement, the village figures handed over the matter to be resolved by the police. Then Syahroni was taken to the Sekampung Udik police office for investigation, and then surrendered to the Sukadana police precinct in East Lampung. After the police finished their investigation of Syahroni and the file was declared complete, the case was delivered to the Sukadana State Prosecutor's Office in East Lampung, and processed at Sukadana District Court, East Lampung.

* * *

Pak Syahroni was detained at Sukadana police precinct, and Iwan Purwanto was picked up two weeks later. It was considered that the activity of giving "extra study/lessons" was part of Baha'ization, initiated by these two men, Syahroni and Iwan Purwanto. It actually did not make any sense, because under the constitution of the Baha'i religion itself, a person can only become a devotee of the Baha'i religion once he is an adult. During the investigation, article 86 of Law 23/2002 on Child Protection was applied.

After that, the momentum for the direction of the case was set, as it went to the prosecutor's office then to trial, and

each hearing was always attended by hundreds of people, quite significant numbers considering the size of Sukadana in East Lampung, and they called themselves Forum Umat Islam (FUI). Then there were attributes of the MMI, mostly FUI wearing headbands. There was also intimidation at the trial. Intimidation occurred when we presented witnesses, and when the witness did not meet their expectations, they (FUI) would shout and curse at them. They came into the courtroom and surrounded the courthouse, so the pressure was extraordinary.

We asked at one stage for the trial to be moved, but we were not accommodated. Perhaps the judge also considered security. If anything happened to the Court later, who would be responsible, if it was burned down, who would provide compensation? You can guess what the ruling was. The Baha'i Assembly had already guessed, and was committed from the outset not to give anything to the court. From the outset the prosecutor had approached us. How could we help? And the judge also gave the signal. But we could never accommodate them. Basically, the judge could not enforce proper justice. (Julius, S.H., Pak Syahroni's Attorney)

Answering a question from the public prosecutor (JPU), Iyus Hendayana, S.H., Syahroni said that he had embraced the Baha'i faith for 19 years. However, he had lived in Sidorejo village for around 30 years, and only began spreading his religion in the last 10 years.

The Court eventually convicted Syahroni to five years in prison, and Syahroni is now still detained at Sukadana Correctional Institute. Seeing a verdict like this, the people of Sidorejo village and its environs accepted it and security returned to normal. Another story, according to the response from Pak Musrit, Secretary of Sidorejo village, this case is not yet over and could cause further

conflict in the community since Syahroni has not yet chosen his response to the village leaders on being required to choose a valid religion in Indonesia so that he can remain in Sidorejo village, or else leave Sidorejo village and continue to follow the Baha'i faith.

Meanwhile, Syahroni's wife, Rusmini, is already back doing her normal daily activities, like opening a store selling herbs and a bicycle shop at the Sidorejo village market, which had previously been closed due to the problems. Rusmini still feels uncomfortable about the judicial proceedings against her husband, since the charges that were alleged involved an article on disturbing and exploiting children through heretical teachings to underage children. According to Rusmini, Syahroni never held lessons at home; it was just children playing at his home, not being given extra lessons; they were simply playing by themselves. According to Rusmini, witnesses presented in court were false witnesses who were not known to Syahroni and his family. With the court's verdict, Syahroni's family feels resigned, and has handed over the matter to the Baha'i Central Assembly.

3. Attack on Jama'ah Salafi in Mesanggok Hamlet, Gapuk Village, Gerung Subdistrict, West Lombok, West Nusa Tenggara

The case of Salafi worshippers (*Jama'ah Salafi*) became one incident involving violations of freedom of religion/belief. Taking place in Mesanggok village, West Lombok District in West Nusa Tenggara (NTB), it received considerable and widespread attention because this incident lasted a long time, continues to occur, and has the potential to repeat itself. The case affected the family of H. Muhammad Mukti. Cases involving the assault and expulsion of Salafi worshippers have actually occurred in almost all parts of Lombok, including East Lombok, Central Lombok, Lombok, Mataram City and West Lombok. Violence against Salafi worshippers has occurred since 2007 and continues today.

Mesanggok hamlet in Gapuk village, Gerung sub district is only half a kilometer from the heart of the West Lombok government,

in Gerung. It lies just to the west of the office of the district head. Lembar port, the entrance to Lombok Island, is only two kilometers away overland. The source of livelihood of the inhabitants is mostly as farmers, transporters, traders and civil servants.

As is generally the case among the people of Lombok, the traditional religion of the Mesangkok community is a religious understanding in the style of Nahdlatul Ulama (NU). TGH. Khotibul Umam says that the people of Mesangkok hamlet still firmly hold to the teachings of *Ahlussunnah Waljamaahas* passed down through their ancestors from the earliest master teachers. This writer's interviews also revealed how the people of Mesangkok have long practiced the teachings of Hazrat (*tarekat*). For instance, it can be traced back to the teachings of the late TGH. Muhammad Arif (died 1946), who is considered an elder by the people of Mesangkok.

TGH. Muhammad Arif is considered to be the person who placed *tarekat* knowledge in Mesangkok hamlet. He is also known as a master teacher (*mursyid*) who generated many more master teachers, among them TGH. Muaz (Sekotong), TGH. Mustafa, TGH. Ridwan (Bela Tepong), TGH. Sidik, and TGH. Karim, who was also the founder of Nurul Hakim Pesantren in Kediri, East Java.

Some religious traditions that are still retained today include *Srakalan* (reading the *Barzanji* on the Thursday night before *Isya'* prayers), prayer calls (*zikir*) in a loud voice (*Jahar*) after the five daily prayers, reading *talqin* for people who have died, commemorating the *maulid* of Prophet Muhammad, *Qunut*, *Begawe* (in the Sasak language: a party) and so on. Devotee practices also include the reading of the *Dalailul Khairot* (evidence of goodness), which is read at all times by the people of Mesangkok. The Mesangkok people often refer to this as *Dalail*.

Amid a religious culture steeped in NU, H. Muhammad Mukti began to hold teachings in his home at which he spread the teachings of Salafi (*Wahabi*). H. Muhammad Mukti's home was located next to the Daarud Da'wah mosque in Mesangkok. He also had a *heler* for milling both rice and corn at the house east of the hamlet. At

first he held teachings in his home, at which family members and workers participated. When the locals rejected Salafi followers at Kebon Kongok hamlet in Lembar, H. Muhammad Mukti together with H. Musfihad turned his home into a place of study.

H. Muhammad Mukti is a resident of Mesanggok hamlet whose ancestors have always lived in this village. The people living in residences nearby are generally relatives, like the populations found in other villages. Everyday H. Muhammad Mukti works at a rice-milling factory, with his business located next to the village where he and his family live. In addition, H. Muhammad Mukti is a teacher of the Koran. The teachings that he provides to his students are Salafi teachings. In conducting his teachings, H. Muhammad Mukti does not hesitate to act firmly against any difference that he feels is a principle that is non-negotiable.

This firm stance taken by H. Muhammad Mukti has brought its own consequences, especially since H. Muhammad Mukti and his family were living in a village where, according to him, many aberrations occurred against those recommended by the Prophet Muhammad. In the opinion of H. Muhammad Mukti, the people commonly still practice acts of heresy (*bid'ah*).

Chronology of Incident

On Wednesday, May 14, 2008 at 10 PM at the home of H. Musfihad, the place of Salafi teachings, was pelted by residents of Mesanggok hamlet in Gapuk village, Gerung sub district. At the time, H. Musfihad was teaching Al-Qur'an *tafsir* to 26 of his followers. His followers came from Kebon Talo hamlet in East Sekotong village, Lembar sub district, West Lombok. The residents did not want their hamlet to become a place where Salafi teachings were taught, since these teachings were considered to oppose their own religious beliefs. Receiving a report, Gerung police chief AKP. H. Ahmad, SH., immediately deployed a force of around 90 people to secure the scene. In order to avoid anarchist actions by the people, that night the police immediately secured H. Musfihad together with the

26 followers at Lobar police station.

The next day, the 26 study group members were removed while H. Musfihad was meeting with citizens for a dialogue. At this meeting were community leaders and powers. In the meeting it was agreed that H. Musfihad should stop his preaching and the local police chief asked H. Musfihad to forgive the citizens' actions.

On Saturday, May 17, 2008 there was a dialog between residents and Salafi worshippers whose house was damaged by the residents, represented by H. Muspihad and two daughters of H. Mukti at Daarud Da'wah mosque in Mesanggok. Attending this dialog were Gerung police chief AKP. H. Ahmad, head of Gerung office of religious affairs H. Muslim, Gerung sub district head L. Ardipati, and Chairman of West Lombok MUI, TGH. Shafwan Hakim. The dialog was facilitated by Gape village head (*Kades*) Zulhaini, and Mesanggok hamlet head (*Kadus*) H. Islahudin. At the meeting, residents insisted that H. Mukti be expelled from the village because his actions frequently unsettled the community. This was also the decision of the deliberations by residents, represented by 60 people. The minutes of these deliberations, which were held on Wednesday, May 14, included an agreement among residents that H. Mukti should be expelled from Mesanggok hamlet and forbidden to teach anything in the hamlet that was contrary to the traditions and customs of the local people. Because the dialog ended in deadlock, it was to be continued at the office of the Gerung sub district head.

On Thursday, February 19, 2009, at 10 PM, H. Muhammad Mukti's house was again pelted by citizens while he was teaching *tafsir Al-Qur'an* at his home. The residents began their pelting again because they did not like the activities of H. Muhammad Mukti, who would not stop teaching the Salafi teachings to his congregation. Reports were received that Gerung police chief AKP. Ahmad, SH, deployed his forces to secure the site that night. The same night, the police again secured H. Mukti and his family at Gerung police station, but the following morning he was allowed to return home.

On Saturday, February 21, 2009, at 5:05 PM, residents again

pelted and damaged H. Muhammad Mukti's home, which was adjacent to the Daarud Dakwah mosque. During this action, five houses of Salafi residents were badly damaged. Like before, residents were angry that H. Mukti was not willing to stop spreading his teachings. This time the trigger for the brutal action by the residents was H. Mukti's position that he was not prepared to come to a dialog being held at Gerung police station. Furthermore, H. Mukti was circulating photocopies of *Furqon* magazine, in which the religious traditions of the local community were criticized. The anarchist action of the residents ended once security officers from Lobar police station arrived fully armed, led by Crime Team Unit Head (*Kasat Reskrim*) AKP. Indra Lutrianto, SH, M.Si.

On Monday, February 23, 2009, at around 8.00 AM, hundreds of Mesangkok residents including men, women and children went to the West Lombok police station. The citizens came with the intention of freeing the two citizens who had been arrested by the police for the damage caused on February 21. Before the residents could reach the police station, they were blocked by security officers. But because they were suppressed, the residents eventually pelted the police with stones and timber. This pelting provoked the police to act aggressively. In the chaos, the police arrested three citizens who were considered the provocateurs.

Then the police, led by Lobar police chief, AKBP Agus Supriyanto, SIK, returned to bring in community leaders for a dialog. The police chief stuck to his position by conducting an investigation on the citizens who had been arrested. Because the dialog was considered unsatisfactory, the residents became emotional and challenged the armed officers. After a pause, a few citizens were forced to return home, but the house of H. Mukti again became a target for the anger of the residents, even though it was still being guarded by security officers. That evening, after further discussion and based on a guarantee, the five citizens who had been detained were released.

On Thursday, February 26, 2009, Lobar police Chief Agus Supriyanto, AKBP invited Mesangkok residents and Salafi figures to a dialog at the West Lombok police headquarters. Present at the

meeting were the Chairman of Lobar MUI, TGH. Shafwan, Assistant I of Lobar District Government, Ir. H. Rahmat Agus Hidayat, the head of the community relations unit (*Bakesbanglinmas*), the head of Lobar office of religious affairs (*Kakandepag*) and the Gerung sub district head. The people of Mesangkok were represented by H. Mahyadin, and the Salafi were represented by H. Mukti. During this mediation, H. Mahyadin accused H. Mukti of deliberately distributing photocopies of a *Furqon* magazine containing the teachings of the Salafi.

At the meeting, the residents stuck to their position that H. Mukti should be asked to stop his Salafi teachings in Mesangkok. In addition, he should leave the village, in line with the 10-point message contained in *nawiq-awiq* (the village rules) made by the citizens. “*H. Mukti must not return to the village. However, his children and wife may still return home, but we cannot guarantee their security,*” asserted H. Mahyadin as negotiator for the residents. There were nine family members of H. Mukti who had sought refuge in the mosque of the Lobar police office.

Causes of Incident

Field research indicated that a group of people damaged the family home of H. Mukti and the library of Nur Muhammad, and took several things from the house and library. The damage was done by a mob of about 50 people who were deliberately mobilized and were armed with weapons.

The causes of this attack were:

- a. H. Muhammad Mukti had taught and disseminated the Salafi faith, which local people considered incompatible with *Ahlussunnah Waljama’ah*, disturbing the community. A written statement had previously been made, based on the results of the deliberations among community leaders and religious figures in May 2008, declaring that H. Mukti would be expelled from Mesangkok village if he kept on teaching the Salami faith. Furthermore, the people agreed not to give

anyone or any party an opportunity to teach and disseminate the Salafi faith, and if anyone did so, they would be dealt with firmly in accordance with customs and the prevailing law.

- b. H. Muhammad Mukti was teaching or opening studies called “*Tafsir Ibnu Katsir*”. But according to him, *Tafsir Ibnu Katsir* scriptures were also used at *pesantren* boarding schools. The only difference was that he acknowledged that the Salafi faith was deemed to include teachings that followed what had been done by the Prophet, and he was actually carrying out the correct form of *Ahlussunnah Waljama’ah*, while others were heresy (*bid’ah*). He also believed that he only took a firm position on beliefs and understandings that he considered right, and he never forced others.
- c. A personal conflict between H. Mas’ud and H. Muhammad Mukti. The conflict began with competition in the rice milling business, and then the surrounding community became suspicious that the prosperity and wealth of H. Muhammad came from assistance from the Salafi network in the Middle East. Another problem related to the unfinished matter of the allotment of land endowments, with the community version being that the land had been endowed to the mosque, while according to H. Muhammad Mukti, who was the beneficiary, it had only been endowed to the personal library of Nur Muhammad. Based on these facts, H. Muhammad Mukti said that H. Mas’uddin had provoked the people by using the issue of the Salafi faith.

Impact and Loss

The psychological burden of the victims from the terror and intimidation from the people meant that the victims still suffered trauma from the damage, theft, abuse, and other human rights violations suffered by the victims along with the loss of their homes. H. Mukti suffered material losses of around 350 million (the gems stolen were worth 150 million and the goods stolen were worth 200

million). The health of the victims was also affected because the places where they lived had no proper roof, only zinc, and the walls were made from bamboo. Furthermore, in order to avoid further similar incidents, the victims had to leave their homes and go to Java Island.

Post-incident and after legal processing, several key witnesses did not dare to testify because they were intimidated, and there was no attempt by the competent authorities to protect the witnesses. Besides that, the only matter arising from the incident that was processed was the damage, while the cases of theft, abuse, and other legal violations were not processed at all before the case was declared closed by the police.²⁷

H. Muhammad Mukti has now taken his wife and children and moved to Java, having been banished by the local community. Other victims have chosen to stay in Mesangkok hamlet, and are trying to repair their damaged homes, while others preferred to become migrant workers in Malaysia.²⁸

4. Civil Disobedience on Legality of Establishment of GKI Taman Yasmin, Bogor, West Java

Bogor City is located in the center of Bogor district. Its strategic location and proximity to the capital gives it potential to be a center for national economic activities, business, trade, transport, communications and tourism. Bogor is an administrative city with six sub districts, 31 wards, 37 villages (five of which are the underdeveloped villages of Pamoyanan, Genteng, Balungbangjaya, Mekarwangi and Sindangrasa), 210 hamlets, 623 RWs, and 2,712 RTs (neighborhoods).

Based on the results of the 2010 population census, the population of Bogor City was 949,066 inhabitants. Of these, 484,648 were male and 464,418 were female. The population of Bogor City, which is

²⁷ Investigation on November 28, 2011

²⁸ Investigation on November 28, 2011

spread across these six sub districts, has experienced an annual growth rate over the last ten years of 2.39 per cent. Population growth in Tanah Sareal sub district has experienced the highest rate of growth among these sub districts, achieving 3.43 per cent.

The 2010 population census also shows that the greatest share of the population of Bogor City is found in the sub district of West Bogor, totaling 210,450 inhabitants or 22.17 percent of the total population of Bogor City. With an area of about 111.73 square kilometers inhabited by 949,066 people, average population density in Bogor City is 8,494 people per square kilometer.

Religious activities in Bogor City are supported by the presence of religious facilities in the form of 2,775 mosques, 5,074 prayer halls (*langgar*), 1,205 *mushola*, 30 churches, and 16 monasteries/ temples. Based on religion, the population consists of 3,433,154 [sic] followers of Islam, 17,529 Catholics, 11,942 Protestants, 2,885 Hindus, and 11,267 followers of Buddhism.

GKI Taman Yasmin

The efficacy of Pancasila is being re-examined. Unity in Diversity (*Bhinneka Tunggal Ika*) as a unifying motto for differences is also being questioned, especially in Bogor, West Java. The law as the commander-in-chief for all of the nation's issues is also being questioned. Pluralism, which is a reality in the life of the nation, is at stake. Minority rights are an important issue for a country that is multicultural in terms of ethnicity, beliefs, religion, language and culture.

According to John Rawls (1971), if one wants to establish a democratic country, such diversity should be managed using the principle of a mutual consensus that is just and upholds the values of pluralism. At the same time, Will Kymlicka, the originator of the politics of multiculturalism, argues that the state should apply a policy of multiculturalism in order to ensure that minorities obtain their rights. Countries also need to grant collective rights, protect and preserve the specific identity of these minority groups. Countries

should encourage each group to develop its entity responsibly.

The case befalling Indonesian Christian Church (GKI) Taman Yasmin began with the desire of the church to establish houses of worship. After the parent church, GKI Court, felt there was have insufficient capacity, the GKI assembly planned the construction of a new church in Taman Yasmin. Then the church made preparations for the construction of a new church in Taman Yasmin, which at the time was located along the Bogor City Ring Road, now known as Jalan Kyai Haji Abdullah Bin Nuh No. 31. GKI Yasmin then processed the building construction permit (*Ijin Mendirikan Bangunan/IMB*) and began its development plan, beginning with an internal study and survey on the development of the church, seeing a need for a Church Post for the area in and around Taman Yasmin.

However, the social facilities at Taman Yasmin Housing Estate Sector 3 and Sector 5, where there had been plans to construct a church building, had their function changed to become another house of worship for another religion. The Yasmin Church Development Team then received information from PT Inti Inovaco that they could purchase commercial land for a place of worship on a site covering 1,720 square meters. Fundraising then began with other churches (GKI Kavling Polri and GKI Suryautama) together with the socialization plan.

Based on data collected from GKI Yasmin, the IMB processing began on March 10, 2002. A number of citizens declared they did not object to the establishment of GKI Yasmin, as evidenced by the support obtained through resident signatories. GKI then began construction of the church, which is located next to Hermina hospital. Bogor City government attended the groundbreaking in 2006 and provided a reception. However, in 2008 the Bogor City government revoked the IMB by reason that the residents' signatures had been obtained fraudulently. A neighborhood head named Munir Karta was accused of forging the signatures for the IMB to establish GKI Taman Yasmin.

The Yasmin church then filed a lawsuit to the State Administrative

Court (PTUN) in 2008. While the judicial proceedings were ongoing, the Bogor City government sealed the building belonging to GKI Yasmin, including padlocking the church gates. After that, the GKI Yasmin congregation performed their worship on the sidewalk in front of the church building. The Bogor City government argued that while awaiting the judicial proceedings, the seal would not be opened. The congregation remained patient, performing their worship on the sidewalk of the road, including Christmas and Easter celebrations.

While the GKI congregation was performing its weekly worship on the sidewalk, a community group appeared and declared its objection to the presence of a church on Jalan Abdullah Bin Nuh. They rejected the establishment of a church on Jalan Abdullah Bin Nuh, by reason that the family of Haji Abdullah Bin Nuh objected to a church being built on a road using the name of a great Islamic scholar in Bogor. The opposition from the community continued, identifying itself as the Forkami (*Forum Komunikasi Muslim Indonesia*) group. Apart from demonstrating, they also put up a banner opposing the establishment of the church and weekly worship on the sidewalk.

The legal proceedings at PTUN Bandung were completed and the court declared that construction of the Yasmin church could resume. But it appeared that Bogor City Government had prepared a legal appeal to the Jakarta State Administrative Court. During the appeal process, the Bogor City government still did not permit the GKI Yasmin congregation to use the church building, again giving the ongoing legal process as its justification.

PTUN Jakarta reconfirmed that no violation of the law had been proven to have occurred during the IMB processing for GKI Yasmin. Thus, the Bogor City government should immediately revoke the sealing of GKI Yasmin. But in fact the Bogor Mayor did not act to comply with the PTUN Jakarta ruling. Then Diani Budiato as the Bogor Mayor filed a cassation to the Supreme Court over the ruling on GKI Yasmin.

At Christmas 2010, GKI Yasmin had to celebrate Christmas on the sidewalk under the supervision of the police and civil service police. Not only that, Forkami also held a demonstration at the same location while Christmas was being celebrated. Several officers guarding the site failed to disperse the mass of demonstrators. Instead, they instructed the congregation not to perform their Christmas worship at the Yasmin sidewalk. In addition to Forkami and Hizbut Tahrir Indonesia intimidating them with expulsion, they also subjected them to abusive words and insults against the Christian faith, declaring that they rejected Christianization in Bogor.

The cassation filed by Bogor City Government was rejected by the Supreme Court (MA). So the Supreme Court issued a ruling that the Bogor City government should carry out the legal process by giving GKI Yasmin the right to continue construction of the church. While awaiting the Supreme Court's ruling, GKI Yasmin and the Bogor City government held several meetings. These meetings always involved the Muslim group in Bogor. The mayor said that once the MA ruling had been issued, he would abide by it. During the meeting, the mayor suggested that GKI Yasmin move to a meeting building in Harmoni located around 400 meters from GKI Yasmin.

But the Bogor Mayor turned out to have a different opinion; he still did not implement the ruling of the Supreme Court, on the grounds that the legal process was flawed and it was rejected by the people. GKI Yasmin's struggle did not end when the Supreme Court recommended that the Bogor government should comply with the legal process. Indeed, the church seal was initially removed by the Bogor government, but three days later they resealed the church building and put up a banner saying that the building was sealed.

In addition to taking the legal process, GKI Yasmin also communicated with a number of parties, including a non-governmental organization that fights for the right to freedom of worship and religion. GKI Yasmin and the NGO together with a number of youth organizations continued to garner support so that Bogor City government would implement the Supreme Court ruling.

Support continued to flow from various parties for the struggle of GKI Yasmin, taking the form of support for action, audiences with a number of state institutions including the National Human Rights Commission, an audience with the House of Representatives of the Republic of Indonesia, and requesting a Recommendation from the Ombudsman of the Republic of Indonesia (ORI).

Through its investigation, ORI then issued a recommendation for the Bogor mayor to implement the Supreme Court ruling. But by the end of the two-week deadline, the Bogor City government had not implemented the recommendation. ORI then made a public announcement on the stance of the Bogor Mayor toward the Supreme Court ruling and on the final authority of the ORI, which it conveyed to the President on this case.

Support for GKI Yasmin also flowed from a political party, PDI-P, as a supporter of the Mayor of Bogor. This political party then declared the withdrawal of its political support for Diani Budiarto since he was considered to have broken the law and had set a bad example for complying with the law of Indonesia.

GKI Yasmin's fight is not yet over, even though a number of prominent figures across the religious spectrum have given their voices and support for GKI Yasmin's struggle. Religious institutions ranging from the Communion of Indonesian Churches (*Persekutuan Gereja Indonesia*/PGI) and the Episcopal Conference of Indonesia (*Konferensi Wali Gereja Indonesia*/KWI) to the Executive Board of Nahdlatul Ulama (NU), the Anshor Youth Movement and individual national figures such as Sinta Nuriah Wahid.

But until now the Mayor of Bogor has refused to comply with the Supreme Court ruling, giving as his reason that the residents oppose the establishment of GKI Yasmin. This justification being used by the Mayor follows action by Forkami at the GKI Yasmin site, and the urging of HTI masses that have held a *tablik akbar* rejecting the founding of the church and opposing Christianization in Bogor.

* * *

GKI YASMIN CHRONOLOGY

(various sources]

March10, 2002:	Socialization of the plan to establish GKI Yasmin. Citizens sign approval for construction of church on 1,721 square meters of land located in Sector III, Plot 31 of Jalan Ringroad Barat Kota Bogor, Curug Mekar ward.
March1, 2003:	Meeting between Curug Mekar youth and committee for church construction on an agreement of no objection to the construction of the church.
October 25, 2005:	Church submits application to construct a church to the Bogor City government
January 8, 2006:	Citizens sign a statement of no objection to the construction of Taman Yasmin church.
January 12, 2006:	Socialization of construction of the church among residents of RTs I, II, III, IV and VI in Curug Mekar neighborhood. Present at this socialization are several RT heads, the Mosque Welfare Council (<i>Dewan Kesejahteraan Masjid</i>) and community leaders.
January 14, 2006:	Signing of a letter of no objection to the construction of the church by 25 residents of Curug Mekar, this letter including the signatures of the head of the Curug Mekar Public Service Agency (LPM), and the neighborhood head for Curug Mekar.
January 15, 2006:	Socialization is expanded. At this time, 40 residents are present from RW VIII in Sector III, Curug Mekar neighborhood. This statement of no objection is acknowledged by the Curug Mekar neighborhood head, the RW VIII head, and the LPM head.

February 15, 2006:	Letter of recommendation from the Mayor of Bogor is issued in the name of West Java GKI, Jalan Pengadilan No. 35, Bogor to process the IMB.
March 3, 2006:	Issuance of a letter from the Department of Environment and Sanitation for Bogor City containing technical advice. Letter number 660.1/144/DLHK in the name of West Java GKI, Jalan Pengadilan No. 35, Bogor.
March 14, 2006:	Bogor City Land Office issues Technical Consideration on Land Use in the Framework of Change in Land Use, No. 460/20/PTPGT-P/2006 in the name of West Java GKI with respect to the plan to construct a GKI building.
March 15, 2006:	Bogor City Traffic and Road Transport Office issues Traffic Technical Advice Assessment No. 503/262-DLLAJ to Elder Sumantoro.
April 3, 2006:	Request for recommendation on greening plan (request to use green park/route, drainage channels, and sidewalk for entrance and exit) and installation of street lighting on public road, No. 090/MJ-GKIBgr/IV/06, to the Head of Bogor City Planning and Landscaping Office.
April 12, 2006:	Bogor City Highways and Waterways Office issues access road construction permit No. 503/238/018-BINA to Elder Sumantoro.
April 17, 2006:	Head of Highways Office issues Letter No. 610/319/018-BIMA regarding technical advice.
May 30, 2006:	Bogor City Urban Planning and Landscaping Office issues Ratification of Site Plan No. 645.8/705-DTKP.

July13, 2006:	GKI obtains Bogor Mayor Decree on Building Construction Permit (IMB) No 645.8-372 of 2006, signed by the head of the Bogor City Urban Planning and Landscaping Office.
August18, 2006:	Socialization of construction of the church is attended by the Chairman and Secretary of MUI Bogor, West Bogor Sub district Head, ulema representatives, the village head, local police chief, deputy chief of local police, Village Security Head, Chairman of community empowerment agency, citizens representing Curug Mekar, and community leaders (Bapak H. Acang, Bapak H. Soleh).
August 19, 2006:	Initial Groundbreaking. Bogor Mayor Diani Budiarto conveys an Official Welcome Message that is read out by representative of Bogor City Government. The Mayor's Welcome message appreciates GKI for managing the permit process and hopes that construction will soon be completed successfully.
October 11, 2006:	Bogor City Regional Secretary delivers a message to relocate the church because there has been a protest to the Mayor from a certain group for construction to be stopped.
December 6, 2006:	Notification from PT. Inti Inovaco stating that in Sector VII, Taman Yasmin Housing Estate has no social facilities for the construction of a non-Muslim house of worship (land social facilities are designated for the Taman Yasmin grand mosque).
January10, 2007:	Installation of foundation pilings, contracted to PT. Sunway Yasa.
February 10, 2008:	Demonstration at the Regional Representatives Council (DPRD) demanding that the Taman Yasmin church's IMB be revoked.

February 14, 2008:	Suspension of IMB by Head of Bogor City Urban Planning and Landscaping Office (KADIS-TKP) 503/208-OTKP regarding Suspension of Permit.
February 25, 2008:	Cancellation of recommendation from Bogor Mayor Diani Budiarto, No. 503/367/Huk, stating that "...objections and protests have been made by the community to the Bogor City Government regarding the construction of a church by GKI following the issuance of IMB No. 645.8-372 year 2006...".
February 28, 2008:	Church sends a letter to the Mayor of Bogor regarding its objection to and rejection of the letter suspending the IMB issued by the Head of the Bogor City Urban Planning and Landscaping Office, copied to the Head of the Bogor City Urban Planning and Landscaping Office, the head of the Supervisory Board for Bogor City Region, the head of the legal section of Bogor City Secretariat, the Head of the Civil Service Police for Bogor City, and the Forum of Islamic Scholars (Ulama) and Mass Islamic Organizations for Bogor City (Letter No. 64/MJ-GKI Bogor/II/2008).
March 10, 2008:	GKI Court No. 35 complains to the National Human Rights Commission (KOMNAS HAM), and in response KOMNAS HAM sends a letter to the Minister of Religious Affairs of the Republic of Indonesia No. 592/K/PMT/IV/08 regarding Rejection of Suspension of IMB for Taman Yasmin Church dated April 7, 2008.

September 4, 2008:	Based on Bandung State Administrative Court (PTUN) ruling No.41/G/2008/PTUNBDG dated September 4, 2008, letter from the Head of the Planning and Landscaping Office No. 503/208-DTKP on suspension of permit dated February 14is declared null and void.
April 25, 2009:	Assault on prayer activities
January 4, 2010:	Construction continues
January 8, 2010:	Work is halted after a threatening letter is received. A group of people arrives and damages the fence that has just been constructed, as well as workers' quarters.
February 25, 2010:	Cancellation of the recommendation from Bogor Mayor Diani Budiarto, No. 503/367/Huk.
March 8, 2010:	Letter from the Head of Bogor City Zoning and Spatial Planning Office requesting that the church construction activities be halted.
March 11, 2010:	Installation on fence of writing saying "SEALED", without undertaking any legal procedures.
December 9, 2010:	Supreme Court of the Republic of Indonesia issues a ruling on the Review petition filed by Bogor City Government on the validity of the church's IMB. The ruling states that the petition is not acceptable (Number 127 PK/TUN/2009).

December 25, 2010:	<p>From the afternoon, the leader of Indonesian Christian Church (GKI) Taman Yasmin is phoned by Bogor Police to cancel the plan for a Christmas 2010 service. Eventually the GKI congregation prepares for the Christmas Service using a tent on the church pavement. The Christmas service begins at 8 PM.</p> <p>From 5.30 PM onwards, Indonesian Muslim Communication Forum (Forkami) begins a demonstration against the church as the time approaches for the Christmas service. During the service, they terrorize the GKI Taman Yasmin congregation participating in the Christmas service. They are only about two meters away from the tent of the GKI congregation. Police fail to disperse the group. Up until the service ends, the group engages in verbal abuse.</p>
December 26, 2010:	<p>Several mid-ranking officers from Bogor Police precinct, West Java Police Department and local soldiers in Bogor visit the homes of the GKI congregation where church leaders are holding a meeting on preparations for the service to be held at 8.00 AM on Sunday, December 26, 2010. They prohibit GKI from worshipping on the morning of December 26, 2010. The church objects. At 7.00 AM the police and civil service police block the section of JL. KH Abdullah Bin Nuh flanking the route to the church. The congregation is banned from approaching the church. Several members of the congregation are asked about their permit to worship. The police deploy a huge force to block the GKI congregation, mobile brigade troops are deployed in large numbers, and several tactical police vehicles are deployed to block the road.</p>

December 28, 2010:	Meeting in Makorem (Regiment Headquarters) attended by four people: Jayadi Damanik, Bogor Mayor (Diani Budiarto), Fahrudin Sukarno leader of KMB (<i>Keluarga Muslim Bogor/Bogor Muslim Family</i>) and Colonel (Infantry) Doni Monardo (Regiment Commander). The result of the agreement is to wait for and then comply with the ruling of the PK, and whatever the result, they will comply with it. On December 31, 2010, Hizbut Tahrir Indonesia (HTI) stages a demonstration against GKI Taman Yasmin at Bogor City Hall round about accusing GKI of Christianization and forgery of signatures of support.
December 31, 2010:	At about 9.00 PM approaching the end of the year, a meeting takes place in Bogor City Hall attended by the full Muspida, namely Military District Command 0606 (Let. Col. Budi Irawan), Bogor Mayor (Diani Budiarto), Deputy Mayor (Achmad Ruyat), Bogor Police Chief (AKBP Nugroho Slamet Wibowo), Assistant Area 1Bogor City <i>Tatapraja</i> (Ade Syarif), representative of the GKI Yasmin church (Jayadi Damanik), Chairman of the Bogor Muslim Family (Fahrudin Sukarno) and the Regional Secretary (Bambang Gunawan). At this meeting the Bogor City Government says it will comply with and enforce the PK decision, whatever the result, and they will obey it together. While waiting for the ruling of the PK, the Bogor Mayor prepares a team to go to the Supreme Court.

January 13, 2011:	GKI church representatives and Bogor City government (represented by Bogor Regional Secretary Bambang Gunawan) go to the Supreme Court of the Republic of Indonesia to request information on the ruling of the Supreme Court. An official at the Supreme Court informs them that the Supreme Court issued its ruling on December 9, 2010. The Supreme Court ruling declares that the petition from Bogor City Government is not acceptable. This means the Supreme Court supports the decision of the High State Administrative Court of Bandung that decided to cancel the Letter from the head of Bogor City Planning and Landscaping Office Number 503-208-DTKP on Permit Suspension dated February 14, 2008, and orders that that Decision be revoked.
February 25, 2011:	The church and the attorney for GKI directly deliver a photocopy of the MA ruling to the Legal Bureau of Bogor City Government with the hope that the church padlocks will be opened immediately.
March 6, 2011:	Because the Mayor still has not opened the padlock that were installed illegally on the church gates (which contravenes all previous court rulings, including Supreme Court decision Number 127 PK/TUN/2009) and because the Mayor has not fulfilled his own commitment made at the meeting on December 31, 2010, the GKI church removes the illegal padlock.
March 11, 2011:	Bogor City Police Chief sends letter number B/1226/3/2011/Polres Bogor Kota on Advice and Suggestions, essentially banning GKI from worshipping at the site of the Taman Yasmin church.

Current Situation

A Worldwide Holy Communion Service took place on October 2, 2011 when the GKI Bapos Taman Yasmin church was again subjected to efforts by the Bogor City Government to expel it from its site of worship. The many methods used by the civil service police to evict the church ranged from efforts to push women who were worshipping, trying to push Rev. Novita Sutanto who led the service, turning on truck engines and repeatedly revving the engines so that the site of the church service was drowned out by the sound of truck engines, and even tried to grab the wine and bread for the Communion, which is revered by the Christian faith.

A number of non-governmental organizations have supported GKI Yasmin in its struggle through a letter signed by a number of figures that were sent to the President of the Republic of Indonesia. This letter was signed by institution heads, religious figures and community leaders. Signatories included Muhammadiyah figure Buya Syafii Maarif, PBNU General Chair Said Aqiel Sirodj, Sinta Nuriyah Wahid, Eva Kusuma Sundari, General Chair of the Anshor Youth Movement Nusron Wahid, Yenny Wahid, and cross-faith youth organizations such as PMII, Hindu, Buddhist, Christian and Catholic Students.

On Sunday, November 27, 2011, Bogor Raya Hizbut Tahrir Indonesia (HTI) masses staged a rally to discuss GKI Yasmin attended by around 4,000 people at Bogor City Hall. Its theme was "Reject the arrogance of GKI Yasmin and the growth of infidel colonizers". This meeting was marked with the signing of a resolution of the meeting by a number of prominent Islamic figures and community figures, including Chairman of MUI Head Office Muhyidin Junaidi, Chairman of MUI Commission IV Wardani, KH Abas Aulia as a Bogor Elder, KH Cholilullah as head of Darul Quran Cisarua Pesantren.

At the time of writing this report, no settlement had been reached regarding GKI Yasmin. President Susilo Bambang Yudhoyono as Head of State has also taken no action at all, only referring the

matter to the local government. The GKI Yasmin case illustrates how a ruling by the highest judicial institution, namely the Supreme Court, was ignored by the Mayor with support from the Ministry of Home Affairs.

5. Prohibition on Construction of Mushola Dome in Talawaan Bantik, Wori Subdistrict, North Minahasa District

Based on information obtained, the plan of local Muslims to build a mushola in Talawaan Bantik village, Wori sub district, Minahasa district, began in 2009. The reason for the need to build the *mushola* was that the Muslim community present in the village, numbering around 13 households, faced difficulty in performing worship (especially congregation prayers), considering that the neighboring villages with houses of worship (mosques) are quite far away. The Taklim Assembly women living in that village formed a committee to construct a *mushola*. This plan was of course with the knowledge of the village head (*Kumtua*) because the proposal to look for funds held by the Mushola Construction Committee was also signed and chopped by the village head and the KUA head for Wori sub district.

Once the funds were considered sufficient, construction of the mushola began. At the time of the groundbreaking, suddenly the village government (village head and Chairman of the Village Representative Body) acted to prevent/prohibit the construction of the mushola. This gave rise to questions from residents, because at the time they were looking for funds to construct the mushola, the village head and the head of KUA Wori sub district joined in signing the proposal. When asked the reason for the ban on construction of the mushola, according to the village government, construction of this house of worship did not have a permit in accordance with the applicable provisions. In addition, the rejection was also based on the wishes of the community.

For those reasons, the citizens then asked the village government

to hold a meeting with all residents to ask whether they (people who were not Muslim) objected to the establishment of this *mushola*. Most people present at the meeting said that was not the case, and only three people confirmed it was. Realizing this, the committee then processed the permit for the *mushola* with the Department of Religious Affairs for North Minahasa Regency. After fulfilling all the requirements to obtain the permit, including collecting signatures from 60 households living around the site where the *mushola* was to be built, permission to build the *mushola* was eventually granted by the Ministry of Religious Affairs in North Minahasa Regency.

Based on this permit, the construction plan began to be implemented. For the second time the village government used village officers to prevent or prohibit construction of the *mushola*, arguing that the citizens must first obtain permission from the North Minahasa District Head before the *mushola* could be built. Although the residents had stated that they had obtained the permission from the district office of the Ministry of Religious Affairs, the village head still insisted that they get permission from the District Head. To avoid conflict, eventually the residents put their construction plans on hold.

Several representatives of the residents then went to meet with the District Head and explained that they were there to request a permit to build a *mushola*, as requested by the village head. The citizens then gave him an explanation of the issues they faced in their efforts to build a *mushola* in the village. Hearing this, the District Head said that this matter was no longer his affair, especially if the North Minahasa District Office of the Ministry of Religious Affairs had already granted permission. This meant that he already knew and also gave his permission. After saying this, the residents were asked to return home and no longer make this an issue.

Based on the information obtained on that day, the sub district head and the village head were summoned by the District Head. After the summons, the village government through the Village Secretary (*Sekdes*) arrived and informed the citizens that they could go ahead and build the *mushola* and the village government there

would not prevent or prohibit it.

After getting the information from the Village Secretary, the residents began their activities to build the mushola that they had wanted. As a result of this issue, construction of the mushola in the village of Talawaan Bantik had been delayed about a year, although the citizens were grateful that finally the mushola could be built.

The construction process continued until the mushola was 75% completed. Then another prohibition/ban occurred when the citizens were about to put up the dome on the roof of the mushola. This prohibition or ban came from the village government through the village head and the BPD Chair, on the grounds that the status of this house of worship was that of a mushola, not a mosque, and therefore a dome was not permitted to be installed. In addition, the permit issued by the Ministry of Religious Affairs was only to establish a mushola, and no attributes (according to them, attributes would include a dome, loudspeakers or a drum).

For the umpteenth time, the citizen representatives returned to the office of the Ministry of Religious Affairs to request an explanation of the permit granted them by the Ministry of Religious Affairs. Responding to this, the Ministry of Religious Affairs directly conducted a field trip to the place where the mushola had been built. During the field trip, the Ministry of Religious Affairs conveyed directly to the local citizens and village government, who were also at the site, that according to the Ministry of Religious Affairs, these days all houses of worship must be equipped with the attributes or symbols that houses of worship have in general, so that everyone will know that this place is a house of worship. This was based on a meeting held in Jakarta with the Ministry of Religious Affairs.

Even though they had received an explanation directly from the Ministry of Religious Affairs in regard to the issue of attributes, still the village head and BPD chair refused, and asked that the dome which had already been installed be taken off again, and of course the citizens rejected this request. Because no agreement could be reached, this issue was deliberated at the Village Hall,

in the attendance of the sub district head and community leaders who were in the village. At this meeting, still no agreement could be reached between the two groups of conflicting parties.

Because there was no agreement, this issue was taken to the district level for discussion, attended by the village head, BPD head, religious figures from Talawaan Bantik village, FKUB for North Minahasa District, representatives of mass organizations, and representatives of the citizens who wanted to build the mushola. At the meeting, based on information obtained, at least three points were decided, namely: [1] the dome that had already been installed no longer had to be removed; [2] no other attributes should be installed (loudspeakers or drum); and [3] they were not allowed to perform Friday prayers at the mushola.

The outcome was slightly different from that provided by another source who also attended the meeting. According to him, loudspeakers could be installed but could only be used at a low volume. However, he also said that as yet he had never signed the resolutions of the meeting. Indeed, some time after this incident occurred, a question arose as to whether these resolutions had been recorded in a Decision Letter. And from explanation given by the Secretary of the Ministry of Religious Affairs, it had already been drawn up and conveyed to the Head of the district office of the Ministry of Religious Affairs.

Based on the information obtained, this tension, aside from being about intolerance, is also inextricably linked to differences in political support at the time of the regional head elections (*Pemilukada*), with the person most opposed to the establishment of this mushola (BPD Chair) currently being on the campaign team for the incumbent District Head. Meanwhile, the husband of the chair of the Mushola Construction Committee supports the opponent of the incumbent District Head. This has been confirmed by another source. This analysis is relevant to the explanation from Darul Halim of North Minahasa MUI that he had been summoned by the District Head to facilitate the taking down of the dome.

Role of FKUB

From the information gathered, the role of FKUB in this case was not very substantial. FKUB, as an institution responsible for maintaining inter-faith harmony, should have acted as mediator in this matter, rather than become the decision-making agency. Apart from that, the most disappointing aspect of the decision-making at the district level meetings relating to this issue was that the decision was made by voting. Clearly this was highly detrimental to the other group (Muslims), who were in fact a minority group at the meeting.

So far, FKUB has not functioned as it should. Its activities only tend to be purely ceremonial, for instance, worship activities at government agencies, or as prayer reader at events held by the government. Meanwhile, the Indonesian Ulama Assembly (*Majelis Ulama Indonesia*/MUI) in North Minahasa District was never invited or involved in giving its opinion or a solution on this issue.

After this issue, relationships within the communities are normal, and activities are being performed as they were before the problem arose. This is also confirmed by all sources that were met. There were even some non-Muslim citizens who happened to pass the mushola, and asked why construction of the mushola had halted. According to them, construction should continue, since it already has a permit and anyway they have never objected to it.

Nevertheless, the problem arising in Talawaan Bantik is not yet resolved. Because based on the decision made at the district-level meeting, there are still matters unresolved. The result was considered as having failed to provide a sense of justice and freedom for the people in performing worship in accordance with their own beliefs. Given the results of the agreement, they are still subject to restrictions (they must not install loudspeakers or drums, and cannot perform Friday prayers). The involvement of the village elite (village head and BPD Chair) in imposing these restrictions on Muslim citizens performing worship is also quite powerful, and this was more due to differences in political views during a time of regional head elections between the village elite (village head and

BPD chair) and Muslim citizens who were there at the time.

6. Discrimination Against Kaharingan Followers in Central Kalimantan

When we speak of Kaharingan in Central Kalimantan, it cannot be separated from Kaharingan Hindu beliefs. If we look at the word Kaharingan, it comes from Sangen (Ancient Dayak) language, with the root word being “*Haring*.” *Haring* means existing and living from oneself, without being created or processed by other parties, instead it is what is available from within oneself. So *Kaharingan* exists by itself.²⁹ The Hindu Kaharingan in Kalimantan follow the concept of *Desa Kala Patra*, with *Desa* meaning adjusting to a place, *Kala* meaning adjusting to a time, and *Patra* meaning adjusting to the situation and conditions. So it continues to evolve.

Exploring freedom of religion/belief further in Central Kalimantan, which is pluralistic, we cannot separate it from the presence of Kaharingan, which has been in Kalimantan since ancient times. However, since the 1980’s, government policy on official religions, or religions embraced by the Republic of Indonesia, has led to unrest among the Kaharingan people.

According to customary head Dandel D. Pangkut, the difference between Hindu Kaharingan and Kaharingan relates to the place of worship. While Hindu Kaharingan worship in special places (temples), Kaharingan worship at Basara Hall. This means that Kaharingan cannot build a house of worship. “In the Kaharingan complex there is the Basara Hall, which was originally intended as a place of worship, but in fact does not appear to be used to carry out obligations like other places,” says Dandel.

In being unable to build a house of worship, Dandel sees that there is a polemic, in mutual conflict, since while according to Hindu

²⁹ *Menelusuri Jalur-Jalur Keluhuran: Sebuah Studi Tentang Kehadiran Kristen di Dunia Kaharingan di Kalimantan*, [trs. *Tracing the Path of Nobility: a Study on the Presence of Christians in the Kaharingan World in Kalimantan*] Hermogenes Ugang, Second Edition, 2010.

Kaharingan they are the same, according to the Kaharingan they want to separate from Hindu Kaharingan. “So as a result there is a clash of opinions and understanding in the religion, making it difficult to apply to the government for assistance through donations.”

Another view comes from Uak D. Lenjun (51 years old), a man who has been *Basir* for the Kaharingan religion for 27 years, who says that there is no fundamental difference between the Hindu Kaharingan and the Kaharingan. The term Hindu Kaharingan is used because Kaharingan integrated with Hinduism, coming under the umbrella of Hindu religious law. In terms of the procedures for funeral and birth ceremonies and so on, the procedures are the same for both death and life.

Uak adds that when W.A. Gara became Governor (in 1980), Kaharingan was not recognized as a religion, causing Kaharingan to become desperate to find a place of refuge. “So we met in Bali with the Hindu religion and took shelter under the umbrella of Hindu law, becoming referred to as Hindu Kaharingan, simply because Kaharingan alone had no legal umbrella (was not recognized as a separate religion). Uak believes it would be best if Kaharingan did not come under the umbrella of Hindu law, because he says the Kaharingan receive from Hinduism only limited funds, a small fraction of the total. In terms of Kaharingan worship, Uak sees no obstacles. The Kaharingan faithful perform ceremonial activities and worship alone without any barriers. Likewise, the Hindu Kaharingan travel together. “Because Hinduism has not Hinduized the Kaharingan, and Kaharingan has not made Hinduism Kaharingan, they travel separately,” says Uak.

In terms of state protection for the Kaharingan faithful, Uak says there is a difference in terms of assistance for the hall of worship, books and so on, because they are not registered with the government. “The one that is registered is Hindu Kaharingan, because it comes under the legal umbrella of belonging to Hinduism. Our endeavors involve using only our own homes, and moving slowly with the times as they flow, and now we simply carry on.”

Relating to permits for religious activities, Uak explains that there is no control from the government. “Permits or recommendations from the government are still issued for religious activities for the Grand Assembly of the Hindu Kaharingan Religion. However, the reality was different before 1970. Uak says there was indeed a distinction; the Kaharingan could not become civil servants or enlist in the military, because they were not recognized as a religion and could not become teachers. Since integration, there is no longer any difference, the legal umbrella is the same, the Hindu Kaharingan and the Kaharingan have the same standing, and for the government there is no difference. In the field of education there are now teachers who teach Hindu Kaharingan, although they are not of sufficient number. Teachers are available for the Hindu Kaharingan religion but not for Kaharingan, since there is already a Hindu Kaharingan Religion university.

In terms of the role that exists in the Hindu Kaharingan religious structure, Uak explains that the *Basir* is the leader of the Hindu Kaharingan religious ritual ceremonies. *Damang* is the leader of customary ritual ceremonies, and *Mantir* is the leader of customary ritual ceremonies, helping the Damang in Dayak customary affairs.

Meanwhile, Lewis KDR (72 years old), as leader of the Supreme Assembly of the Hindu Kaharingan Religion (MB-AHK) from 1980 until now, is also actively involved in the Indigenous Dayak Council (DAK) and the Indigenous Dayak National Assembly (MADN). When met by this observer at his home, he said that the Kaharingan religion does not exist, what exists is the Hindu religion. “The word Kaharingan is a word in the political party called United Kaharingan Dayak Indonesia (SKDI). There used to be a Christian Party (PARKINDO) and an Islamic party, MASYUMI. So that group, which was not Muslim and was not Christian, formed one party named United Kaharingan Dayak Indonesia.

Kaharingan is considered the religion of our ancestors (*orang ngaju*), but actually their religion is the Hindu religion, the oldest religion in Indonesia. Throughout Indonesia the Hindu kingdom developed, the forms and methods to perform religion using

incense, frankincense, water, fire and the rice were the same, even including *Dewa Sang Hyang*. Associated with the influx of Protestant missionaries, and religious missions with a Muslim strand, they treated Kaharingan religion as a custom. Lewis explains that Kaharingan is the oldest Hindu religion in Indonesia. “We have had in national discussions where it was clear that in Indonesia this is the oldest Hindu religion, since it evolved from the Hindu kingdom that developed in West Kalimantan, South Kalimantan, East Kalimantan (Kutai Kertanegara) and Central Kalimantan,” explains this man, who was once a member of Central Kalimantan Regional Representatives Council..

On state protection, Lewis asserts that basically the state protects all people who follow a religion. But with the proviso that religious missions operating in Central Kalimantan must not take other people who are already religious. However, Lewis sees that state protection still appears to discriminate against Hindu Kaharingan. Under these conditions, they are trying to establish a Hindu Religion university and other schools operating from the perspective of old customs, so they can study. The Dayak people are sophisticated not only in religion, but also in customs. However, it is hard to get into the bureaucracy. Dayak people need to be aware so that they can make changes to these conditions.

According to Lewis, there have been attempts to prevent Kaharingan entering the bureaucracy, for example, if the Kaharingan have prepared an S1 (bachelor’s degree) to apply for work, what is required is an S2 (master’s degree) or S3 (doctorate). Lewis feels this is discriminatory. “Eventually we broke out on our own because the Hindu Kaharingan group did not want to be cast aside again, this would pose a danger for us in the future. Consequently, we feel an injustice, this is the biggest obstacle and seems natural, even though there are links that are controlled to prevent us entering the bureaucracy,” said Lewis.

On the institutional structure recognized by the state, Lewis explains that Hinduism in Central Kalimantan is divided into two: Hindu Dharma Parisada, which comes from Bali, and the Great

Assembly of the Hindu Kaharingan Religion. “The great Assembly will face up to missionary groups that used to try to take them (Hindu Kaharingan),” explains this man, who is still trusted as the Chair of MB-AHK.

In relation to future expectations in connection with freedom of religion and belief, Lewis sees this in terms of preserving and strengthening the indigenous wisdom possessed by the Dayak. The problem now is we are already beset by globalization, meaning that our local wisdom was set aside long ago. Whoever reduces local wisdom through globalization will be set aside. Dayak people are not just religious in practicing God’s knowledge; there are also customs and science.

A different opinion is conveyed by Kaharingan religious figure Lubis, General Chair of the Executive Board of the Supreme Assembly of the Kaharingan Religion of the Republic of Indonesia (PBLT-MAKRI) from 2006 to 2011, who explains the fundamental difference between Kaharingan and Hindu Kaharingan. Actually there is no religion called Hindu Kaharingan, but when someone mentions it, there are people who either understand or are confused. Obviously, in proper and correct Indonesian, Hindu Kaharingan is not the name of a religion but a name combining two religions – Hindu and Kaharingan. The Kaharingan religion simply implements, maintains and applies the procedural rules of the Kaharingan. There is no mixing with or influence of other religions. As for the Hindu Kaharingan, this was clearly born in 1980 when a handful of people acting in the name of Kaharingan entered the Hindu religion and then called themselves Hindu Kaharingan.

“Consequently, the Kaharingan Religious Assembly of the Republic of Indonesia (MAK) as the highest institution in the Kaharingan religion will not admit or tolerate the presence of people who call themselves Hindu Kaharingan. Why? Because Hindu Kaharingan means abusing and desecrating two religions—Hinduism and Kaharingan,” says Lubis.

In relation to performing Hindu Kaharingan religious activities,

Lubis explains that there has been no disruption. This is because they refer to Law No. 39 of 1999 on Human Rights. But Lubis says that discrimination is felt by Kaharingan followers because they are not included within the organizational structure managed by the Ministry of Religious Affairs. While there is also no formal prohibition from the government, their services are not structured by the Ministry of Religious Affairs from the central level down to the regions.

According to Lubis, in terms of funding support from outside the Kaharingan congregation, other faiths receive full funding out of the state budget and regional budget. From the budget ceiling in Central Kalimantan Provincial government for 2009-2011, for instance, there is a fund allocation of 1.1 billion, while in 2011 we got about 140 million out of that 1.1 billion. Lubis has tried to make reports objecting to this situation.

In terms of state protection for the Kaharingan faithful, Lubis explains that the law is already fine, but its implementation by unscrupulous administrators is not yet satisfactory, from the level of the President down to the districts, especially services in the environs of the Ministry of Religious Affairs. "The local government sometimes satisfies us, and sometimes it cannot satisfy us because we have help as well, but compared to the few Buddhists and Hindus, they could offer more help to the Kaharingan community. However, since there is (admittedly) no structure at the Ministry of Religious Affairs, we get only a little, since religion is handled by the central government, whereas the assistance is granted based on human rights."

Lubis hopes that state administrators from the President down to the bottom can carry out their respective functions in line with the existing laws and without further discrimination. There should be no compulsion. They should be fair in eradicating acts of discrimination and be guided in applying state rules correctly.

Sisto Hartati, an advisor to the Hindu Community from 2007 to 2011 at the Ministry of Religion in Central Kalimantan, says that

state protection for the Kaharingan faithful has been integrated since 1980 with the Hindu legal umbrella. This means that in performing their religious activities, they come under no influence whatever and are free to carry out Kaharingan teachings in accordance with existing conditions. So there is no coercion or intimidation from any party while they carry out activities.

On government support, Sisto explains that the government provides a legal umbrella, because the Kaharingan people already have the umbrella of legality through Hinduism. The forms of support mainly come from the budget, and the government has given an opportunity to an institution, in this case the Great Assembly of the Hindu Kaharingan Religion (MB-AHK), to manage this budget itself. That means we in the government only monitor the amount of the figure and pay attention to the religious activities themselves. Meanwhile, the regional budget assistance coming from the assistance budget of Central Kalimantan Provincial Government is fully managed by the religious institute.

The institutes that partner with Central Kalimantan Provincial Government are Parisada Hindu Dharma for Central Kalimantan Province and the Great Assembly of the Hindu Kaharingan Religion. It is these two institutions that receive a share of the budget corresponding to their size. In terms of discrimination, Sisto feels that before the legal umbrella arrived in 1980, “especially for matters relating to governance, we did not get recognition. Even our identity cards (KTP) could not state our religion, we could only use the mark “–” (a dash). “But with the era of integration, we now have our freedom, and the government supports us in providing guidance and services to the faithful in Central Kalimantan, even tolerating some districts that should fill out the identity cards in line with the government rules by writing only Hindu for the religion, and nothing else, but they still fill in religion as Hindu/Kaharingan, what is important is that there is a legal umbrella,” says Sisto.

He adds that there are people who would-be allergic to writing only Hindu, so they will only add it if there is Kaharingan. With the existence of a legal umbrella, Hindu Kaharingan is beginning to be

taken up and can be compared with others. One day, Kaharingan will be recognized as a religion, so they are welcome to fight for it. “But my advice is to do it politely and sweetly, not by denigrating others. For freedom of religion I am welcome to, on the one hand, be an *“uluh itah”* (Dayak person) and I can also lift up my thumb, if I want to be like that, if there is a time when Kaharingan is recognized as a religion that is not the same as Hinduism, provided this battle is fought politely,” says Sisto.

Sisto hopes that in the future Kaharingan can practice its religious teachings in accordance with the applicable provisions, as outlined by the Scriptures, including those in the *Panaturan* and so on. “Do that as well as you can, do not be an anarchist, creating discomfort among religions, especially with people from other faiths,” pleads Sisto.

The different views about Kaharingan are still being debated among Kaharingan adherents themselves. In the dynamics of Central Kalimantan, for example, political integration into Hinduism to become Hindu Kaharingan, to some Kaharingan followers this is a form of discrimination, especially when the government only gives free space to Hindu Kaharingan. Meanwhile the Kaharingan themselves feel ignored. It is known that “tension” has arisen in Central Kalimantan between Kaharingan and Hindu Kaharingan leaders. Especially as it relates to how the government treats them differently. Some Kaharingan leaders continue to battle to advocate recognition of Kaharingan in order for it to acquire rights as an independent religion. A lawsuit over the Kaharingan integration into Hindu Kaharingan still continues today, and some discrimination still remains, though of a varied scale and type.

7. Church Burning During Temanggung Riot

Temanggung District is located in the middle of Central Java province and is 46.8 km from north to south and 43 km from east to west. The administrative boundaries of Temanggung District are as follows: to the north it is bordered by Kendal and Semarang; to

the east it is bordered by Semarang District and Magelang District; to the south is Magelang District; and to the west it is bordered by Wonosobo District. Temanggung District's population was 703,346 in 2006, 709,343 in 2007 and 716,295 in 2008 (consisting of 357,299 men and 358,996 women, with a density of 823 people per square kilometer). Temanggung District has 20 sub districts, one of which is Parakan, where riots took place on February 8, 2011.³⁰

The burning of the church began in the courtyard of Temanggung District Court at Jl. Jend. Sudirman No. 180, Temanggung. From the courtyard, a mob ran amok along Jl. Sudirman. The Catholic Church of St. Peter and Paul is about two kilometers west of Temanggung District Court Office. Also on Jl. Sudirman, the Pentecostal Church, the Shekinah Christian school, three cars and six motorcycles were also set on fire.

Brief Chronology³¹

Riots took place in Parakan sub district, Temanggung on Tuesday, February 8, 2011, after Temanggung District Court handed down a prison sentence of five years to the accused, Antonius Richmond Bawengan, in a case of religious desecration. The sentence was meted out on the same day that the public prosecutor (JPU) read out the charges against Antonius. This sentence was handed out without any defense from the accused.

Antonius Richmond Bawengan is a resident of Duren Sawit in East Jakarta who on October 23, 2010 was caught distributing books titled "*Ya Tuhanku, Tertipu Aku!*" ("Yes, My Lord, I Was Fooled!") (60 pages) and "*Saudaraku, Perlukah Sponsor*" ("Brother, Do You Need a Sponsor?") (35 pages). After being investigated at the police station, on November 21, 2010 the Temanggung District Prosecutor submitted the case file to Temanggung District Court. On January

30 <http://www.temanggungkab.go.id>

31 Chronology prepared based on investigation by the SETARA Institute and interviews with witnesses.

13, 2011, the trial of Antonius began. From January 13 onwards, the hearing was crowded with members of Islamic organizations. And at the second hearing on January 27 there was chaos in the courtroom. The fourth hearing, at which the charges were read out, was held on February 8, 2011, and culminated in a riot.

Tuesday, February 8

9.30 AM

The hearing began and was led by Judge Dwi Dayanto. The public prosecutor demanded a five-year prison sentence for Antonius. After the reading of the charges, the judge left the courtroom. When the indictment was read out, a number of people yelled that Antonius should be sentenced to death. Cries of this nature had never before occurred.

10.00 AM

The judge returned to the hearing and read out the sentence for Antonius, handing out a five-year prison sentence. After the sentence, there was uproar in the courtroom. The mob even threw a burning piece of wood towards the judge's table.

At the same time, the mob outside the court began to rampage and burn old tires. Yet at each hearing all visitors were carefully searched with a metal detector to avoid any sharp weapons or the like. But this time the used tires reached the courtyard.

Then the mob ran amok, carrying rocks that they threw at the police station, and damaging several buildings. The police were overwhelmed in face of the mob, which had regularly followed the hearings, mingling with unfamiliar people.

Still in front of the court, *Dalmas* and *Brimob* police troops from Temanggung police precinct and the Central Java police force applied pressure by firing tear gas. But the mob did not retreat and continued to cause damage, breaking through the gates of the court

building. Theresa police car was overturned and set on fire.

10.30 AM-12 NOON

Then the mob set fire to Bethel Church, and the Catholic Church of St. Peter and Paul. The mob that burned this church was a different group from the rampaging mob at the court. Some of them were already at the site of the church. The mob continued moving westward and damaged the Pentecostal Church and the Shekinah Christian School. Vehicles including three cars and six motorcycles were also set on fire in the church courtyard. The mob also caused destruction along the route.

12 NOON

The mob continued to the junction on Jalan Sudirman and then broke up.

The situation along Jalan Sudirman was only brought under control at around 12 noon. At that time eight trucks full of soldiers from Yon Armed 3 Magelang also arrived at the scene of the incident. They then combed through strategic sites in Temanggung. Several conclusions can be made from this event:

1. There were two groups at this incident: the first group was regular visitors who were following the trial proceedings; and the second group deliberately “plotted” to engage in provocation.
2. Churches were guarded by the army and police before the riot, proving that the police had already detected that there would be a riot.
3. There were used tires that were burnt in the Temanggung District Court courtyard, yet the searches conducted before entering the courtyard were quite tough.
4. There is a strong suspicion that the Temanggung riot was engineered by groups outside the mass organizations that had been monitoring the trial.

Investigation following the Incident³²

Investigations by the SETARA Institute led to strong suspicions that the riot in Temanggung was also planned. The central figure considered by the police was KH. Syihabuddin. Syihabuddin is the head of Wonoboyo Islamic boarding school, and is also active in the United Development Party (PPP). In addition to this person, the SETARA Institute suspects that Said Sungkar, who was at the scene, is a key figure for the police to investigate. Said Sungkar is Chairman of Dewan Syuro FPI Pekalongan, which is strongly suspected to be part of the Jamaah Islamiyah network.

In the morning before the incident, several Islamic schools were approached to send their students to attend the trial as an act of solidarity. But the school heads refused. One witness says:

“...we ask law enforcers to fully prosecute the intellectual actors funding this, who arrived at the schools to take students to attend the trial. Then we ask that police law enforcement officers be resolute, resolute and firm in this case.”

“This is very secret, we know that an institute used buses to collect students and take them to the trial. On Wednesday (9/2) we had already met the institute...”

“But fortunately, the students did not want to go, even though they were being forced, thanks to the headmaster’s firm stance. This school is on the Temanggung-Magelang border.”

Another witness said there were strange but true things about this incident. In addition to those inside the courthouse, the mob that was outside mostly consisted of people who were not from here (Temanggung).

“...We did not know where the mob came from, whether it was a mass organization or where the mobs of people were from, since there were so many. We were also surprised because we knew none of them. Because if they were from the city (Temanggung), then we would know some of them, since I live in this town.”

32 Interviews conducted by the SETARA Institute with a number of witnesses.

Other witnesses identified five peculiarities of this incident, namely:

“ ... There were four [five] odd happenings in Temanggung. *First*, the churches were guarded by the police before the riot. *Second*, when the police car was overturned by the mob, the distance between the police car and PHH was only 20 meters, while the mob totaled only 20 or so people and there were more than 100 police officers, so why didn't they prevent it? *Third*, the police came to their conclusion too quickly. It had been said that the rioters were people from Pekalongan and Solo. *Fourth* is the matter of the old tires being burnt inside the courtyard; where did they come from?”. The *fifth* issue was the presence of a masked man approaching the church, and using a mobile phone just when the mob arrived (police were already waiting there), yet the police left this man alone.

“When they entered through the courtyard gates, all visitors were searched, including for small items (such as mobile phones), so how could such big things [used tires] get in?”

The SETARA Institute found several indications that the Temanggung riot had been planned, namely:

1. The incident coincided with *Tabligh Akbar Syihab Karzai* in Pekalongan, on February 8, 2011.
2. The perpetrators of the arson and destruction really understood the situation on the ground at the churches being attacked. This understanding could not have been acquired without a survey prior to the incident.
3. The efforts to mobilize students before the riot meant that there were parties organizing it.
4. The situation at the trial had been set for chaos from the outset, with provocation to attack the accused having already begun.
5. The police determined that Syihabuddin was the actor behind the scenes, but a number of parties doubted this. Syihabuddin was arrested because he had often made speeches at previous court sessions.
6. The police appeared to direct their investigations towards this incident being purely a case of mob chaos (spontaneous mass action, not by design), determining that only a religious figure

- making a speech was the trigger. Yet the police had clearly stated earlier that the rioters came from Kendal, Pekalongan, and Solo.
7. Witnesses believed that the mob engaging in the provocation was not from Temanggung. Generally they had the following traits:
 - a. Accents that were not Temanggung accents.
 - b. They were dressed differently from Temanggung Muslim groups (robes with pants above the heels).
 - c. People in this group were seen to change their clothes immediately after the chaos.

State Response

After the events that took place in Temanggung, Central Java, President SBY said through Coordinating Minister for Politics, Law and Security (*Menko Polhukam*) Djoko Suyanto:

“President Susilo Bambang Yudhoyono condemns the damage done to churches by a masked group in Temanggung, Central Java. The President received a report of the incident during a flight from Jakarta to Kupang this afternoon.

“The President has issued several instructions. *First*, he strongly denounces the actions of this group of people that resulted in damage to houses of worship and other facilities. *Second*, he has ordered the Central Java regional police to immediately investigate and locate the perpetrators behind all these destructive and anarchic acts...

“*Third*, the entire local government apparatus, security apparatus in the region, armed forces and state police are requested to engage in acts of prevention and early detection. Acts of deterrence and prevention, and firm action against improper efforts and action,

“*Fourth*, local government officials and local security forces should also perform their duties and responsibilities in accordance with the authorities given them.”³³

33 www.presidentri.go.id, “Presiden Minta Usut Segera Pelaku Kerusuhan Temanggung” [trs. *President Asks that the Perpetrators of the Temanggung Riot Be Investigated Immediately*] on Tuesday, February 8, 2011

In responding to the Temanggung incident, SBY appeared firmer, with the riots and attacks against churches and other property clearly being unjustified actions, and urged all elements of the state to take action in proportion to and in line with their authority.

The next response of the President, which was the most strident, was when he attended the National Press Day Commemorative Summit in Kupang on February 9, 2011, at which the President stated:

“Where there are official groups and organizations that continue to engage in acts of violence, law enforcers need to find a legitimate and legal means necessary to dissolve them.”

On the one hand, the President’s response was appreciated by many parties for his firmness in approaching recurring practices of violence taking place in Indonesia, which were carried out by certain mass organizations. But as a solution to overcome violence in the name of religion, it appeared that this order was in effective and was more of a political response meant to convey message to the public that the state has the power and capacity to resolve this issue.

Another political response was used by a number of groups, whether in government or parliament, community leaders, leaders of mass organization, and suchlike. Amid President SBY’s order to explore the possibility of dissolving organizations prone to engage in violence, the Ministry of Home Affairs met with leaders of Islamic organization on February 16, 2011, among them the Islamic Defenders Front (FPI), the Muslim Forum (FUI), and the Indonesian Ulema Assembly (MUI).

In addition to holding meetings with the leaders of mass organizations, the Ministry of Home Affairs also ordered all Mayors and District Heads to identify the anarchical organizations that often commit violence and report them to the province so that action can be taken. Widiyanto, Director for National Vigilance at the Directorate General for National and Political Unity (*Kesbangpol*) at the Ministry of Home Affairs, stated on February 10, 2011: “these mass organization figures were staying in Pekalongan

before the incident, and a day before the riot they were staying in Parakan, Temanggung.” He also said that he did not rule out the possibility that the riots in Temanggung were related to incidents in Pandeglang, Tasikmalaya, Bekasi and Tangerang. Because the Ministry of Home Affairs instructed all regions to immediately record the anarchist mass organizations found in their region. “They should be immediately recorded and reported to the province,” he said.³⁴

The political response conveyed by various state institutions indicates several conclusions. *First*, all elements of the state condemned the violent practices and urged law enforcement officers to take concrete and firm action against the perpetrators of the violence. And *second*, the political response from President SBY, in particular the order for law enforcement to be carried out by the police authorities and related ministries by taking legal steps and seeking relevant breakthroughs, in particular in controlling the Ahmadiyah issue. As for the order to explore the dissolving certain mass organizations, this was ignored, and the response from the Ministry of Home Affairs was contradictory, namely by providing political accommodation to Islamic organizations that are precisely those that are strongly suspected of committing violent acts.

8. Standing on Their Own Two Feet: Voices Of Ahmadiyah Victims Following The Cikeusik Banten Incident

In February 2011, an attack in Cikeusik, Pandeglang, Banten damaged the sense of humanity of the Indonesian people and the world. Three people were killed and five injured when they were attacked by a mob of hundreds fired up with hatred because they held a different view of religious life. Instead of applying fair law enforcement and issuing a policy that better guaranteed freedom of religion, after the Cikeusik incident, the state actually issued

³⁴ Kemendagri: *Tokoh Ormas Gerakkan Kerusuhan di Temanggung* [trs. Ministry of Home Affairs Decree: *Mass Organization Figures Behind the Riot in Temanggung*], Koran Bogor.com, February 11, 2011

increasingly discriminatory policy against Ahmadiyah. In March of that year, the government issued Banten Gubernatorial Regulation (*Pergub*) No. 5 of 2011 prohibiting the activities of followers, members and Executive Board members of the Indonesian Ahmadiyah Congregation (*Jemaat Ahmadiyah Indonesia/JAI*). The same month, the Banten Gubernatorial Regulation was followed by West Java Gubernatorial Regulation No. 12 of 2011 banning JAI activities. This was further reinforced by several similar regulations at the municipal level, issued by the cities of Bogor, Banjar and Bekasi. In West Java, this Gubernatorial Regulations and the Mayoral decrees legitimated the practice of coercing a pledge to leave Ahmadiyah, which in some areas involved the Indonesian army (TNI) through Operation Sajadah. In addition to West Java, following the Cikeusik incident, similar regulations were issued by the governments of South Sulawesi, East Kalimantan, East Java and West Sumatra. No fewer than 11 regulations discriminating against Ahmadiyah 11 were issued in 2011.

Long before the Cikeusik incident, discriminatory regulations had hit the Ahmadiyah Faithful in Selong, East Lombok, West Nusa Tenggara through a decision of the chief state prosecutor for Selong, Number Kep. 11/IPK. 32.2/L-2.III.3/11/83, prohibiting the activities of Ahmadiyah. This was followed by expulsion and the burning of a mosque and homes, resulting in displacement. And in this province, the displacement has continued until today. The refuge is located at the Praya hospital building in Central Lombok and the Transito building in the city of Mataram. An attack on JAI in Parung, West Java in 2005 also erroneously inspired similar regulations in the districts of Bogor, Cianjur, Garut, and Tasikmalaya. And in Kuningan District in West Java, the regulation was not only limited to religious activities, even services such as Resident Identity Cards (KTP) and marriages among Ahmadiyah followers have become hostage to this regulation, and have been in effect since 2003.

The increasing number of discriminatory legal products and attacks against the Ahmadiyah faithful is inseparable from the strategy of the third wave of religious radicalism. In its research on

religious radicalism and its implications for the guarantee of freedom of religion and belief in the Greater Jakarta area and West Java, the SETARA Institute has analyzed at least three waves of radicalization of Islam in Indonesia.³⁵ The first wave was the religion-nuanced horizontal conflicts in Maluku and Poso (1999-2002) that changed religious perspectives and tension within communities throughout Indonesia. The second wave was the ‘*positivization*’ of Islamic Sharia through regional regulations based on religion and morality. Sharia positivization was also present in a number of laws, including the Law on Sharia Banking (2008) and the ratification of the Anti-Pornography Law (2008). By 2010, the National Commission for Women’s Rights (Komnas Perempuan) had recorded 189 policies in the name of morality and religion. The third wave consisted of attacks against sects deemed heretical, along with anti-Christianity and anti-immorality attacks.

Based on monitoring by the SETARA Institute over the last few years, the Indonesian citizens who most frequently suffer discrimination and violence in relation to being deemed a heretical sect are the followers of Ahmadiyah. During this third wave, organizations that do not tolerate Ahmadiyah work through MUI infiltration. In one of his speeches, Indonesian President Susilo Bambang Yudhoyono considered MUI as a mass organization whose religious ruling (*fatwa*) relating to the Islamic doctrines deserved to be heard.³⁶ Support was also garnered from other non-radical Islamic figures and mass organizations. Through this infiltration and alliance, they were able to gather support to urge the state to issue a policy of intolerance for the existence of Ahmadiyah, from national-level policy down to the village level. Furthermore, radical groups also entered into an alliance with the political elite, who were prepared to make a political contract to discriminate against Ahmadiyah. In addition, they developed working networks among

35 Ismail Hasani, *Wajah Para Pembela Islam*, [trs. *Faces of the Defenders of Islam*] (Pustaka Masyarakat Setara, Jakarta: 2010).

36 International Crisis Group, *Implications of Ahmadiyah Decree*, Update Briefing, July 7, 2008.

cities and regions to provide mutual support for programs to spread hatred through *tabligh*, coerced pledges to leave Ahmadiyah, and attacks against Ahmadiyah followers. They also used one attack as a threat and basis for attacks in other places. One attack, which took place in Parung, Bogor, West Java, became the basis for discrimination and attacks in several places in Cianjur, West Java.

Through this way of working, dozens of regulations discriminating against Ahmadiyah were issued by the government of Indonesia at the national level, in provinces and in village governments. Implementation of these regulations was even more discriminatory than the substance of the regulations. Mass organizations that refused to live with Ahmadiyah continued to urge the government to issue regulations that were intolerant, and then used these discriminatory regulations as the basis for their acts of violence.

List of Victims Grows Longer

Discriminatory regulations and weak law enforcement against these massive attacks resulted in a growing list of Ahmadiyah followers, including women, men and children, being the target of discriminatory practices and violence. Female victims even suffered belief-based violence at the same time as gender-based violence. Violations of citizens' rights continued at home, in exile, in the schools where their children studied, in offices where civil servants worked, and in the markets where traders earned their living.

Many cases of violence and discrimination have not been revealed. Not only has the state been involved as a perpetrator, impunity and an unfair judiciary has undermined the attempts of victims to seek justice through legal mechanisms. In addition, the spread of hatred by teachers (*ustadz*) through *tabligh* involving mobs, and intervention by the state apparatus against civil servants in village governments, have destroyed coexistence between Ahmadiyah followers and the local community. This damage to coexistence has also meant that the victims are increasingly hidden, because they face a denial of their experience. In facing such a situation, victims

tend to face all of this without adequate restitution, without a fair hearing, and without any guarantee of their ownership of property, which has been plundered repeatedly. They also lack security of their livelihoods, having been repeatedly reorganized due to being exiled and displaced as refugees.

Voices of Victims

Standing on Their Own Two Feet has been prepared to provide an independent space for the victims to have their voices heard. It explores how the victims understand and define the incidents of discrimination and violence that they experienced; how these events have impacted on their daily lives; whether the victims have obtained their right to restitution, right to the truth, and right to justice; and what restoration and justice mean for the victims.

The framework for the preparation of this text refers to three rights of victims. *First* is the victim's right to know. Individual victims and the people closest to them have the right to know what happened, a right to the truth. The right to know is also a collective right by virtue of history in order to prevent such a violation being repeated in the future. This right demands an "obligation to remember" on the part of the state to ensure there is no historical aberration in the name of revisionism or recusal. The state should take appropriate action to guarantee the effectiveness of this right. If the legal institutions fail to satisfy this point, the first priority should be to designate an extra-judicial commission and guarantee the preservation of archives related to human rights violations that have occurred.³⁷

Second is the victim's right to justice. Each victim is entitled to have the opportunity to use their rights and receive fair and effective justice, to obtain a guarantee that the perpetrators of the human rights violations that they suffered are brought to court, and to

³⁷ Glossary on Violence Against Women as Human Rights Violations (Komnas Perempuan, 2006).

obtain redress. This right to justice imposes an obligation on the state to investigate human rights violations that have occurred, prosecute the perpetrators, and punish them when they have been found guilty.³⁸

Third is the victim's right to reparations. Victims, including their relatives and dependents, should obtain effective reparations. The procedure being applied should be published as widely as possible. Right to reparations should include all losses suffered by the victim, which includes the right to restitution (efforts to restore the victim to their original state), compensation (for physical and mental injury, including loss of the opportunity to live, physical damage, damage to reputation, and the cost of legal assistance) as well as rehabilitation (medical care, including psychological and spiritual care).

Article 35 of Law No. 26 of 2000 on the Human Rights Court, together with its elucidation, states that:

Restitution is compensation that is given to the victims or their families by the perpetrator or a third party. Restitution can take the form of: a) return of property rights; b) payment of compensation for losses or suffering; c) reimbursement for certain actions.

Compensation is compensation given by the state where the perpetrator is unable to fully compensate for that which is his or her responsibility.

Rehabilitation is restoration of one's original state, for instance, one's respect, reputation, position, or other rights.

Documentation of these victims' voices was conducted in several places in the provinces of Banten, West Java and West Nusa Tenggara. Locations were selected based on monitoring by the SETARA Institute, which identified these three provinces as being host to the worst discrimination and violence against Ahmadiyah followers. In Banten, the voices of victims were compiled in Cisereh

³⁸ Glossary on Violence Against Women as Human Rights Violations (Komnas Perempuan, 2006).

Village, Pandeglang District; in West Java, locations included Garut District, several places in Tasikmalaya City and District, Banjar District, Manis Lor Village, Kuningan District, Cisalada and Parung, Bogor District, Sukadana Village, Cianjur District; and in West Nusa Tenggara at the Praya refugee center, Central Lombok and the Transito refugee center in the city of Mataram. Data mining and the writing of this text took place between October 2011 and January 2012.

The collection of victims' voices was the pivotal basis for the writing of this text. This process was essential, because the victims were in a situation that was denied by both the state and sections of the community. In addition, in cases of violence based on religion that is upheld by many state regulations, it is very difficult for the victims to entrust their own protection to the state, especially when the Indonesian government does not have the proper systems or mechanisms in place to protect the victims. Collecting the voices of victims faced its own challenges, especially in terms of building trust between the writer and the victim, as well as the mechanism for protecting the victims that has been incorporated into the preparation of the text and its publication. This process also determines the extent to which the victim is free to express his or her experience and perspective.

From Cikeusik to the Longest and Recurring Exile

When considering discrimination and violence against Ahmadiyah followers, the public's memory will focus on the attack in Cikeusik, Banten and the longest and recurring exodus to Praya and Transito, West Nusa Tenggara. But besides the incident in Paring, Bogor in West Java, there have also been longstanding and overshadowing cases of discrimination, among them the denial of Resident Identity Card (KTP) services and wedding services for Ahmadiyah followers in Kuningan District, protected by a 2002 joint edict (SKB) issued by the Local Leaders' Assembly (Muspida), DPRD (Regional Representatives Council), MUI, the leaders of pesantren

and Islamic mass organizations, prohibiting the heretical sect and teachings of Ahmadiyah. This policy has been in effect since 2003. Freedom of religion in West Java was also damaged by the practice of coercing pledges from JAI, partly through Operation Sajadah under the framework of West Java Gubernatorial Regulation No. 12 of 2011 banning JAI activities in West Java. Under these circumstances, the documentation of victims' voices focused on several areas in the provinces of Banten, West Java and West Nusa Tenggara (NTB).

Longest Exodus in NTB

When we look at Ahmadiyah followers in West Nusa Tenggara, the public will never forget the incident in Ketapang in 2005. A mob gathered from eight surrounding villages and attacked 33 Ahmadiyah households living in Ketapang hamlet, Gegerung Village, Lingsar Sub district, West Lombok. This attack resulted in the destruction and burning of houses. The police evacuated the Ahmadiyah followers to the Transito building at the department of social affairs (*Depsos*) for West Nusa Tenggara, located in the city of Mataram. A year later, another attack occurred, targeting the homes of Ahmadiyah followers in several villages in Praya Sub district in Central Lombok. This attack caused 16 households to take refuge in Central Lombok police station, who were then moved to the KNPI building and ultimately to the old Praya Hospital building.

These two exoduses were still ongoing when this text was compiled. Although some of the refugees from Ketapang hamlet were able to go home and repair their homes, attacks happened again, leading them to take refuge again in Transito.

Before these three incidents occurred, Ahmadiyah followers had already suffered several attacks, including in East Lombok. The government had also issued several policies since 1983. Among these was the decision of the state prosecutor's office in Selong, East Lombok, No. Kep. 11/IPK.32.2/L-2.III.3/11/83 prohibiting Ahmadiyah activities. In West Lombok District, NTB, on July 4, 2001, MUI issued a recommendation proposing that the Ahmadiyah

sect should leave Islam, such that it should no longer proclaim itself and its activities to be Islamic, and that the government should be firm in prohibiting the activities of this group. In October 2002 the Mayor of Mataram issued appeal number 008/283/X/INKOM/02 relating to Ahmadiyah refugees from East Lombok, among other things instructing that Ahmadiyah followers should avoid group meetings with fellow Ahmadiyah followers. In the same year, the East Lombok District Head issued Circular No. 045.2/134/KUM/2002 restating the ban on Ahmadiyah teachings. While in West Lombok, the District Head issued Decision No. 35 of 2001 prohibiting and stopping distribution of Ahmadiyah teachings and beliefs. This letter was in response to an attack on Ahmadiyah followers in Sambi Elen hamlet, Lelean village, Bayan sub district.

From this long history and repeated attacks on Ahmadiyah followers in West Nusa Tenggara, the refugees repeatedly had to seek shelter at the refugee centers in Praya and Transito. Many victims, who had begun new lives and built homes with their labors, were again attacked and had their homes vandalized and their assets looted. This led to some of the men, as household heads, suffering mental breakdowns, double the burden for the women, and disrupting access to education for their children. The repeated displacements also meant that they – especially those displaced to Transito, Mataram – did not have identity cards, which had an impact on all their rights as citizens. The views of the victims of these circumstances can be found in the following sections.

Cikeusik Attack in Banten

A mob of hundreds of people attacked, resulting in three fatalities and five people injured, on February 6, 2011 in Pendeuy, Umbulan Village, Cikeusik Sub district, Pandeglang District in Banten – an act of terror against the unity of religious life. Ahmadiyah followers not only became victims of discrimination, displacement and destruction of their homes and property, they also became targets of mass persecution and slaughter outside the boundaries of

humanity. This incident occurred because radical organizations that continually nurtured hatred and promoted intolerance had been left alone. Apart from the poor functioning of the State Intelligence Agency (BIN) in the early detection and prevention of violent acts, the police force also failed to act.³⁹

Law enforcement in the Cikeusik incident also set a bad precedent in fulfilling the right to justice of victims. The perpetrators were only sentenced to between two and six months, while one of the victims injured in the attack got nine months in prison. Sentencing, which was only aimed at perpetrators in the field, also failed to fully comply with a sense of justice, as expressed by a woman whose husband was killed.

Still in Pandeglang District, after the Cikeusik attack there was word that there would be an attack on Cisereh, resulting in the evacuation of the Ahmadiyah followers and the police guarding the village for days. This was exacerbated by the sealing of the mosque built by Ahmadiyah followers and Ahmadiyah being forced to issue a statement to the local congregation. The weak law enforcement also gave radical groups the opportunity to use the Cikeusik incident as a threat to Ahmadiyah followers in other regions of Indonesia.

Pledge in West Java

Attacks against the Ahmadiyah faithful in West Java were marked by a mob attack on the Mubarak campus in Parung, Bogor district, from July 7 to 22, 2005. Although the central focus was West Java, this incident terrorized the entire Ahmadiyah faithful, because the attack occurred while JAI was holding a national meeting attended by followers from all branches in Indonesia.

After the Parung incident, the attack then targeted Ahmadiyah followers in several villages in Cianjur District during September 2005. This attack resulted in the destruction of mosques and

³⁹ Ismail Hasani, et al., *Ahmadiyah dan Keindonesiaan Kita* [trs. *Ahmadiyah and Our Indonesianness*], (Pustaka Masyarakat Setara, Jakarta: September 2011).

houses, and the looting of property in Kampung Ciherang, Kampung Neglasari, Sukadana Village, Kampung Panyairan, Campaka Village in Campaka Sub district, and Ciparay Village in Cibeber Sub district. This attack also included a threat of rape on a woman who was nine months pregnant. The attack also led the followers to flee into the forest. The issuance of West Java Gubernatorial Regulation No. 12 banning JAI activities in 2011 'encouraged' radical groups to burn down houses and takeover the mosque that had been built by Ahmadiyah followers in Neglasari Village.

Meanwhile, still in Bogor District, an attack also took place in Cislada in 2010. This attack resulted in the destruction of a mosque and burning of homes. In addition, five primary school teachers were transferred (all of them women), and a male teacher's promotion to headmaster was cancelled. The impacts of the Cislada incident also included the abuse of a girl on a public minibuss by three teenage boys. The Cislada attack also resulted in one Ahmadiyah follower being charged with a stabbing and being imprisoned in Cibinong prison.

In Garut District, practices of intolerance began back in 1987 in Pangauban village. In this village, the government prohibited Ahmadiyah from using their mosque for worship. There was also a case of coercion to leave Ahmadiyah, resulting in an exodus, especially by those who refused to make the pledge.

Under the legal framework of West Java Gubernatorial Regulation No. 12 banning JAI activities in 2011, the government together with MUI and radical groups engaged in coercive pledges. The same thing also occurred in Tasikmalaya District and City, while in Banjar District the mosque was sealed.

In Manis Lor Village, Kuningan District, freedom of religion of Ahmadiyah followers began to be disrupted after a joint decision was issued by the local government in 2002, which was implemented by holding back identity card services and wedding services. The Kuningan district government still refuses to provide identity card services unless Ahmadiyah followers declare the they have left

Ahmadiyah or removed the information about their religion from their identity card. Kuningan district government is also unwilling to provide marriage services. In addition, also in this village, there have been several attacks resulting in damage to the mosque and efforts to seal the mosque. One of these attacks resulted in a farmer being stabbed. While the sealing of the laboratory and library buildings at SMP Amal Bakti junior high school brought 20 girls face to face with the conflict.

* * *

19 Modes of Discrimination and Violence against Ahmadiyah

Based on testimony from victims in Banten, West Java, and NTB, there are at least 19 forms of discrimination and violence against followers of Ahmadiyah, as follows:

1. Coercive Procedures and Arrangements in Places of Worship
 - Sealing of Ahmadiyah mosque in Manis Lor in Kuningan, Tasikmalaya City and Banjar.
 - Use of Ahmadiyah mosque for public preaching by Islamic mass organizations, where none of the arrangements involve Ahmadiyah, in Neglasari Village, Cianjur.
2. Denial of Access to Haj Pilgrimage
 - The Ministry of Religious Affairs has prohibited Ahmadiyah followers from undertaking the haj pilgrimage. The Minister of Religious Affairs has said that the basic principles of Ahmadiyah mean that they cannot go to Mecca or Medina because they are not Islamic. “That city is prohibited to non-Muslims.”

3. Being Forced Out of Beliefs

- *Euis*, a widow who lives alone, was visited at her home in Garut by Babinsa. Babinsa offered to facilitate her in leaving Ahmadiyah.
- *Ahmad*, a farmer, was forced by MUI to sign a letter on leaving Ahmadiyah, witnessed by the Sub district Head and the police, at Bayongbong police station, Garut.

4. Attacking, Damaging and Burning Houses

- *Imas* (69) a widow and pensioned civil servant teacher, had his house burned down by a mob during an attack over the construction of a mosque in Cisalada, Bogor.
- *Ambu* (55), a widow, had his home burned down by a mob in Cieceng, Cianjur.

5. Sexual Harassment and Threatened Rape

- *Euis* was nine months pregnant at the time of an attack on Ciparay Village, Cianjur, and was threatened with rape by a mob that damaged her home and looted her stall: “*Urang kitu heula*” (meaning we will rape you first) said one attacker, while another attacker said “*Da keur keureuneh*” (she is pregnant). But another attacker said “*Keun bae keu keureuneh oge and heunceut na mah teu bareuh*” (so what if she is pregnant, her vagina is not swollen like her belly).

6. Violence and Murder

- *Asep*, a farm and building laborer, was stabbed in his lower ribs when facing an attack and the sealing of the mosque in Manis Lor.
- Muhammad Ahmad alias Bebi (45), Ahmad Mashudi (25), Ferdias (32), Apip Yuhana (25) and Deden Dermawan Sudjana (48) were assaulted by a mob during the Cikeusik attack.
- Roni Pasaroni (35), Tubagus Candra Mubarok Syafai (34) and Warsono (31), were assaulted and killed during the Cikeusik attack.

7. Imprisonment for Followers Who Are Intimidated and Attacked

- Yanto (19), was imprisoned for six months for brandishing a machete when seven FPI members and police officers carrying pistols came to his house and shouted “Just handcuff him!” in Wanasigra, Garut.
- Deden Dermawan Sudjana (48) was sentenced to six months by Serang District Court when he stood up to attackers during the Cikeusik incident.

8. Displacement

- Displacement of the victims of several attacks in various regions of Lombok and Sumbawa, which has been going on for five years, in Transito, Mataram and Praya, West Lombok.
- *Cahya* (41), a tailor, was displaced to Kendari, then to a village in Tasikmalaya District, because he refused to sign a declaration that he disavowed his beliefs in the village of Pangauban, Garut.

9. Expulsion and Separation of Family Members

- *Kurdi* (47), a farmer, was expelled and forced to sign a declaration that he was leaving his village in Ciawang, Tasikmalaya by a community group, because he refused to leave Ahmadiyah. This expulsion meant that Kurdi was separated from his wife and children, who were not Ahmadiyah.
- *Nani* (73) was expelled to several locations after her husband and all of her children in her home village in Ciaruteun, Bogor were forced to sign. She cannot return to live in her village unless she is prepared to sign a declaration that she has left Ahmadiyah.

10. Refusal to Provide Identity Card (KTP) Services

- Since 2003, Kuningan district government has refused to issue or extend resident identity cards for Ahmadiyah followers unless they leave Ahmadiyah or do not state Islam

as the religion on their KTP.

- Mataram city government refuses to issue KTPs for followers who have spent five years as refugees in Transito, Mataram, by reason that there has been no handover of residency from the home government of the refugees.

11. Loss of Access of Public Health Services

- *Mardi* was ready to sell his baby to RSUD hospital because he was not able to pay his wife's maternity fees. This refugee couple at Transito, Mataram cannot obtain public healthcare (*Jamkesmas*), maternity welfare (*Jampersal*), or other services that would reduce the cost because the government is not prepared to offer identity card services.

12. Threat of Coerced Pledge through Village Midwife

- *Lili* cancelled the immunization of her infant when the village midwife asked her to wait while she got the medicine ready. But then four *kyai* arrived who usually coerce pledges in Neglasari village in Cianjur.

13. Refusal to Provide Marriage Services and Threatening to Cancel Wedding

- Since 2003, Kuningan district government has refused to provide marriage services to Ahmadiyah followers unless they leave Ahmadiyah.
- *Aisyah* was forced to declare that she disavowed Ahmadiyah after Praya religious affairs office that was marrying her to a non-Ahmadiyah citizen threatened to cancel the wedding, and the public would pour scorn on their children as being illegitimate. Similar efforts to cancel a wedding also befell a Ahmadiyah couple in Tasikmalaya City.

14. Threat and Loss of Livelihood

- *Karim*, a stall owner, went bankrupt after the Mosque Family Council (DKM), Neighborhood Head, Village Government and Sub district Head issued a prohibition on trading with

Ahmadiyah followers in Cibatu, Garut.

- *Rina*, a civil servant and primary school teacher with 16 years of service, was asked to move by the school head, being punished for her faith by her fellow teachers (subject of religion), and was expelled by the *kyai* who issued a *tabliq* on moving up to the next class at her school in Sukadana village.

15. Judging and Mistreating Children

- *Nina*, in the first grade at junior high school, had her hair pulled and was hit three times by fellow passengers on a public minibus –three boys aged about 17 –after they forced Nina to confirm that she came from Cisalada (a region where many followers live). Other passengers, who were her fellow pupils, failed to help, and even laughed at her, as did the bus driver on the Pasar Salasa-Leuwiliang route in Bogor.

16. Girls Brought into Conflict


- 20 girls (grade 6 in primary school and junior high school) made a human chain in front of their library building which was to be sealed by civil servant police in Mains Lord Village, Kananga. This incident occurred at 6.30 in the morning, when the teachers had not arrived and the adults had gone to the fields.

17. Women Forced to Become Family Heads

- Three wives whose husbands were killed during the Cikeusik incident had to become both mothers and fathers, struggling for a living, restoring themselves and bringing up their children not to be vengeful. One of them underwent a caesare surgery because her health declined during her pregnancy after her husband was killed.

18. Refusal to Live Together

- *Lia*, an integrated service post (*Posyandu*) activist who used to send rice boxes, childbirth thanksgivings, to the family welfare office (PKK) and village officials for their meetings,



had her rice boxes returned because officials at Neglasari village, Cianjur, prohibited meeting attendees from accepting food from Ahmadiyah.

- The neighborhood head (RT) asked the owner of a dorm not to rent out rooms to Ahmadiyah refugees in Mataram.

19. Prohibition on Burying Ahmadiyah Bodies

- *Hadi* received information from Babinsa about a meeting that had decided that Ahmadiyah bodies could not be buried in public cemeteries, following an attack in Tolenjeng, Tasikmalaya.

9. Criminalization of Andviolence Against Shiites

Sampang District is located in the administrative region of East Java province. Its geographical location is 113-08'-113-39' East Longitude and 6-05'-7-13'South Latitude. Sampang District is located approximately 100 km from Surabaya, accessible via Suramadu Bridge on an overland journey of about 1.5 hours. The borders of Sampang District are the Java Sea to the north, the Madura Strait to the south, Bangkalan District to the west, and Pamekasan District to the east.

Sampang District has a total area of 1,233.30 km². It has 14 sub districts consisting of 6 wards and 180 villages. Banyuates Sub district has an area of 141.03 km² or 11.44% of the total area, and is the largest sub district, while the smallest is Pangarengan with an area of only 42.7 km² (3.46%). Sampan District has one uninhabited island located to the south of Sampang Sub district.

The name of this island is Mandangin Island, and it has an area of 1.650 km². Transport access to Mandangin Island is by water transportation, in this case a motorboat from the port of Tanglok. The journey from the port of Tanglok to the island of Mandangin takes around 30 minutes.

Sampang District is an area where the majority of the community groups have Islam as their religion and the reference for their values and the basis of their group solidarity. This group always supports the ideals of Islam and often emphasizes religious symbolism. Aside from being known as a group of people who have a strong Islamic religion identity, Sampang society also has strong fanaticism and feudalism with respect to its Islamic scholars (*kyai*). The religious elite in Sampang also play an important role in local political contests and as a reference for grassroots groups in various socio-religious affairs.

The *kyai* plays an important role in the socio-religious domain of Sampang society. The role of the *kyai* is very prominent, and he becomes a reference for various problems. In political contests, this group uses the symbolism of Islam and Islamic terminology for the basic organizational rules, recognizing Islam (*khittah*) as the struggle and political discourse. In contrast to other regions, Sampang District has specific ideas about Islam that tend towards leniency rather than violence, such as infiltrating government policy. In cultural contests, the religious elite become a reference and assert its role as a cultural broker.

As the majority, the Islamic group in Sampang is associated with Nahdlatul Ulama (NU), the largest socio-religious organization in Indonesia. Patronage and fanaticism towards the *kyai* lies behind Sampang society's choice on what to use as its reference. So it is natural that most Sampang people choose NU as their socio-religious organization. This is confirmed by KH. Syafi'udin Wahid, Ro'is Syuriah PC for NU Sampang, who notes that Sampang citizens are 99% NU, with the other 1% divided up among Muhammadiyah, LDII, Persis, HTI and others.⁴⁰ KH Buchori Makhsun, Chairman of the Indonesian Ulema Assembly (MUI) for Sampang District, agrees with Syafi'udin Wahid's statement.

Furthermore, socio-religious organizations other than NU are

40 Interview with KH Syafi'udin Wahid on October 16, 2011.

merely complementary and few in number.⁴¹ These huge parameters lie form the backdrop for political contests in Sampang District such as the regional head elections (*Pemilukada*). In post-reform history, the District Head and Deputy District Head of Sampang have always come from an NU organizational background. Otherwise, it would be hard to win a regional head election in Sampang District.

Charges of Heresy and Attacks against Shiite Followers

Conflict between Sunni and Shiite followers in Nangkrenang village, Karang Gayam, Omben originated in a dispute between Ali Murtadho, alias Tajul Muluk, and Kyai Ali Karar and several of his students (*santri*) in 2004. Ali Murtadho is chairman of *Ikatan Jamaah Ahl Bait* (JABI) in Sampang. Before Ali Murtadho studied at Yayasan Pesantren Islam (YAPI) in Bangil, Pasuruan, he was a student of Kyai Ali Karar in this village.

The people of Omben know YAPI as a pesantren with a Shiite orientation. The public also knows Habib Hussein al-Habsyi, the founder of YAPI, as a leading Shiite figure in Indonesia. After studying at YAPI, Ali Murtadho immediately became active in his hometown. Ali Murtadho became a young leader who began to influence and grab the attention of the public. His participation in teachings at the mosque made Ali Murtadho a young man who had the sympathy of the community.

With the increasing popularity of Ali Murtadho in Nangkrenang, an issue started to be spread that this person had brought in a new sect that was deviant and tended towards heresy. Murtadho recounts that the process began with an attack launched by religious leaders in Nangkrenang.

“Because I lived at YAPI Bangil, they (Nangkrenang religious figures) already knew that Ust. Hussein (al-Habsyi) had said it was Shiite. But initially they were still undecided whether or not I was Shiite, because

41 Interview with KH Buchori on October 17, 2011.

at that time I was still *taqiyah*,⁴² ... and once people began to follow me, the Shiite issue began to emerge.”⁴³

Continuing Murtadho’s narrative, his dispute with various *kyai* in Omben continued because several activities of Murtadho were considered disruptive to religion. Regarding the commemoration of the *Maulid* of Prophet Muhammad, for instance, this figure held a different view from these *kyai* about holding the *Maulid* commemoration. In Nangkrenang village and throughout Omben, the people have great reverence for the *Maulid* commemoration. Each household has a celebration (*tasyakuran*). So the *Maulid* commemoration is not just a religious ritual; it is also about social prestige.

This motive of pride means that the people do not hesitate to go into debt to commemorate the *Maulid* of the Prophet. Many people went into a spiral of debt for this reason. Murtadho often helped resolve these spirals of debt suffered by the people, using his own funds. At the same time, Murtadho also recommended a new way of commemorating the *Maulid* of the Prophet – not by changing the ritual, just changing the method so that it would not burden the public. The *Maulid* Commemoration was then conducted on a rotating basis, with the costs shared.

“The *Maulid* (commemoration) issue involved an old tradition that everyone should celebrate *Maulid* in their own homes, and sometimes the cost put people into debt. Well, I was very concerned to see the poor economic state of the people, and in my opinion it was very burdensome on society. I then took the initiative to hold the *Maulid* commemoration just at the mosque, with people contributing what they could afford, because in my view this reduced the cost and saved time... but it turned out that they (the anti-Shiite group) were annoyed.”⁴⁴

42 *Taqiyah* is hiding one’s religion or beliefs for personal and social welfare. Some ulema interpret *taqiyah* as being an effort to protect one’s life and assets against enemy crimes, namely by expressing infidelity in their presence without believing this infidelity in one’s heart. Most ulema also permit *taqiyah* in order to save one’s life and social welfare.

43 Interview with Ali Murtadho on October 20, 2009; a full report on the interviews can be found in *Syahadah: Newsletter on Religious Freedom*, issue 3/2009.

44 Interview with Ali Murtadho on October 20, 2009.

This dispute continued, and together with that came the issue that the Shiite teachings brought by Ali Murtadho were deviant and heretical teachings, which became increasingly prevalent in Omben. As this issue developed, the kyai opined that Murtadho's missionary (dakwah) activities were unsettling and disturbing the peace of society. On this basis, Murtadho was summoned by Kyai Ali Karar and asked to stop these missionary activities because they were deemed heretical. Murtadho recalls:

“I was summoned by Kyai Ali Karar and tried on various types of charges. This meeting also involved many people. There were 32 charges of heresy made against me. One of these accused me of believing in Prophet Sayidina Ali (bin Abu Thalib). None of these accusations was proven, yet they still insisted, since the purpose was not to find the truth... they only wanted to vent their emotions, and ultimately no dialog was possible.”⁴⁵

After that, the issue of the Shiite teachings brought by Murtadho became more widespread, and got more and more backers. By 2006, the heresy issue had fueled the anger of everyone in Omben Sub district. At that time, an anti-Shiite group had begun acts of intimidation and terror against Shiite followers. They eventually attacked the village of Nangkrenang. No fewer than 7,000 people were mobilized from all of the villages in Omben Sub district. The mob was armed with spears, machetes, sickles and other sharp weapons. The situation was like a preparation for battle. In the face of this onslaught, the Shiite citizens, who only numbered around 200 people at the time, stood their ground. They did not run and refused to leave Nangkrenang, the land of their birth.⁴⁶ “Even though they were ready to attack and kill us, with God's help, none of this happened,” said Murtadho.

After this mass assault, the conflict between the Shiites and *Ahl al-Sunnah wa al-Jamaah* in Sampang actually never again resurfaced. However, in 2009 the threat of attacks did reappear. The Omben people were again fueled with anger by the issue of the

45 Interview with Ali Murtadho on October 20, 2009.

46 Report in *Syahadah: Newsletter on Religious Freedom*, issue 3/2009.

heretical Shiite teachings brought by Murtadho. Of course, this was not unrelated to the incitement fomented by the monthly sermons held intensively by the *Ahl al-Sunnah wa al-Jamaah* group. “These sermons not only spread charges of heresy against Shiites, they also spread slander. There was one speaker who said that the Shiites spread teachings on swapping wives or husbands, and so on,” explained Murtadho.⁴⁷

Shiite followers were again intimidated by the group claiming to be acting on behalf of *Ahl al-Sunnah wa al-Jamaah Islam*. On a Monday (10/10/2009), a mob led by KH. Ali Karar, head of Darut Tauhid Sampang Pesantren, came to the village of Nangkrenang threatening and terrorizing local citizens to disavow the ‘heretical’ Shiite teachings. Although again there was no physical contact or damage to the homes of residents, the arrival of this mob created an atmosphere of terror. Most residents acknowledged feeling that their safety was threatened. Murtadho explains that the tension between the Shiite followers and the *Ahl al-Sunnah wa al-Jamaah* group had in fact already begun during the month of Ramadan 1430 H. It began with intensive sermons by the *Ahl al-Sunnah wa al-Jamaah* group, spreading incitement that Shiite teachings were heretical and part of Judaism. Under the pretext of defending the community from a heretical sect, a number of kyai in Omben, Sampang then consolidated the masses into the assault on Nangkrenang village.

On this basis, Muluk believes that the conflict between the Shiites and *Ahl al-Sunnah wa al-Jamaah* is more a result of a misunderstanding resulting from slander being spread intensively. Muluk is also sure that actually the people citizens do not really object to the presence of Shiites in Nangkrenang. In general, the people’s hatred was deliberately incited by these leaders and kyai. Tajul Muluk expressly states that the attacks by the *Ahl al-Sunnah wa al-Jamaah* group in 2006 and 2009 were inseparable from the behind-the-scenes role of KH Ali Karar, H. Jamal (an alumni of Sidogiri Pasuruan pesantren), Abdul Malik, Bahram, and Mukhlis.

47 Interview with Ali Murtadho on October 20, 2009.

The latter three people were formerly students of Kyai Karar.

From that time, Shiite followers in Nangkrenang village were always intimidated and terrorized by the surrounding communities. Ali Murtadho recounts that almost every day, followers were terrorized by insults, threatening stares, and of course the threat of attacks.⁴⁸ This intimidation and terror did not stop until it reached its peak in early April 2011, when for the third time the Shiite followers were assaulted by a mob of thousands. On April 4, 2011, the plan was to hold a commemoration of the Prophet's Maulidin Karang Gayam at the home of Ali Murtadho, Chairman of Ikatan Jamaah Ahlulbait Indonesia (IJABI) for Sampang District. The event was also attended by Shiite followers from various places in Omben region. The event eventually had to be cancelled because a mob of thousands were coming in a convoy and planned to attend the event.⁴⁹

Hundreds of people armed with sickles, machetes, batons and various other sharp objects not only headed the convoy planning to come to the home of Ali Murtadho, but were also prepared to mount an attack on Karang Gayam village if the ceremony actually took place. The mob had been gathering since 7 PM and terrorized the Shiite followers. According to Murtadho, the incident on Monday (4/4/2011) was just only link in a chain of terror and threats that Shiite followers in Karang Gayam received almost daily. Unlike what was reported by many media, the terror and threats on this Monday did not occur spontaneously. Rather, it was all coordinated using the strength of Islamic mass organizations and religious figures in Sampang.

The anti-Shiite group consolidated and strengthened. The mob terror and threats were not only coordinated by religious figures and local kyai in Omben, they were also supported by Silaturrahmi Ulama Madura (*Basra*) and Madura MUI. The mass organization

48 Interview with Ali Murtadho on January 13, 2011.

49 This story is based entirely on an interview conducted with Ali Murtadho by telephone on April 6, 2011 at 22.00-22.30.

led by KH. Kholil Halim became a new force participating in committing this terror, and urging Shiite followers to immediately leave Sampang.

The terror and threats continued to escalate. Shiite followers in Karang Gayam still stood their ground and refused to leave Omben, even though they were under the shadow of terror and attacks. On Monday (4/4/2011), conflict could have erupted when the mob were allowed to come face-to-face. To prevent casualties, Sampang police officers went on alert at Karang Gayam. Ali Murtadho himself was taken to Sampang police station.

On Tuesday (5/4/2011) a closed meeting was held between Tajul Muluk and the District Head and Deputy District Head of Sampang, Muspida and an Ulema group at the district hall. This meeting was also attended by the East Java police chief, Irjen. Untung S Radjab. The ulema present included the Chairman of PCNU Sampang, KH. Muhaimin Abd Bari, Rais Syuriah NU, KH. Syafiduddin Abd Wahid, Chairman of MUI Sampang KH Bukhori Maksum, KH.Zubaidi Muhammad, KH Ghazali Muhammad, and several other ulema.

Instead of engaging in mediation, the meeting with Muspida actually marginalized Tajul Muluk and Shiite followers. According to Tajul Muluk, Muspida even participated in passing judgment on the beliefs of Shiite followers. Muspida joined in insisting that Tajul Muluk accept several options presented by MUI, PCNU and Basra.

These mass organizations alleged that the Shiite followers had violated an agreement with the Sunni groups. Their story was that in 2009 a Sunni group led by Kyai Karar had held a dialog with Tajul Muluk. At that time, Kyai Karar and other religious leaders had urged Tajul Muluk to stop his missionary activities because they were considered deviant. Tajul Muluk claimed that this meeting was not a dialogue, but a unilateral judgment made by the Sunni group.

So now the leaders of MUI, PCNU and Basra alleged that Tajul Muluk had violated an agreement that never actually existed. KH Bukhori Maksum, Chairman of Sampang MUI, for instance, alleged that Tajul Muluk had violated the agreement because in fact he

continued to engage in Shiite proselytizing to the local community. Of course these accusations were not true. *First*, Tajul Muluk had never agreed to the Omben ulema's demand to halt proselytizing activities. *Second*, the teachings by Tajul Muluk only took place within the IJABI congregation.

MUI, PCNU, and Basra leaders preferred to turn a blind eye and close their minds. They insisted on offering the same options to Tajul Muluk. These options were:

1. Halt all Shiite activity in the Sampang region and return to Sunni beliefs.
2. Be expelled from the Sampang region without any compensation for land and assets held there.
3. If one of the two options described above was not chosen, that would mean that the Shiites in Sampang would have to die.

The meeting with Muspida and the East Java police chief on Tuesday (5/4/2011) also failed to result in any agreement. The options offered by the ulema were expressly rejected by Tajul Muluk. As before, the Shiite followers in Omben stood their ground. They stuck to their belief that no group had any right to expel them from Sampang.⁵⁰

After the meeting with Muspida, Murtadho could not return directly to Nangkrenang. On a pretext of security, Sampang police office insisted that he stay at police headquarters for an unspecified time. Murtadho told the media, "I have been protected by officers for about 12 days, and I am now at the official residence of the Sampang police intelligence head, AKP Ipal Faruq," said Murtadho. Nevertheless, religious leaders and the public have continued their efforts to banish Murtadho from Nangkrenang.

Suddenly, on April 16, 2011, a rumor spread that Murtadho had been moved from Sampang police headquarters to Sawojajar

50 Report in *Syahadah: Newsletter on Religious Freedom*, issue 13/2011.

Village in Malang, East Java. Murtadho acknowledged to reporters that the rumor was true. Of course, this news contrasted with Murtadho's previous attitude. On April 6, 2011, Murtadho was still resolute, and determined not to leave Sampang. After 12 days being cooped up in Sampang police station, suddenly Murtadho's attitude changed and he accepted the demand that he be banished. Murtadho told the media, "For the time being, I have been moved to Malang so that the situation is not tense." Murtadho also said that he had been accompanied to Malang by a police officer from Sampang police force.

Although Murtadho has already been successfully driven out of Sampang, MUI, PCNU and Basra continue to gather community support to banish Murtadho. MUI has even collected thousands of signatures from people agreeing to the expulsion of this Shiite leader. "These signatures are for a Shiite presence in Karang Gayam to be rejected and the actor to be banished from there," said KH. Bukhori Ma'sum, Chairman of Sampang MUI.⁵¹

Shiite Conflicts in East Java

Conflicts between Shiite and Sunni groups have not only occurred in Sampang, Madura. In several parts of East Java, similar conflicts often occur and end in violence. Regions including Tapal Kuda, Pasuruan, Lumajang, and Jember have strong potential for Shiite and Sunni conflict. In fact, in mid-February 2011, a group claiming to be Sunni attacked Yayasan Pesantren Islam (YAPI) Bangil Pasuruan because the pesantren identified itself as Shiite.

On Tuesday, February 15, 2011, hundreds of people representing *Ahlu al-Sunnah wa al-Jamaah (Aswaja)* Islam attacked Yayasan Pesantren Islam (YAPI) Bangil. According to the official report from YAPI, this group arrived on motorbikes from the direction of Pandaan. According to eyewitnesses, the attackers numbered an estimated 400 people riding tandem on 200 motorbikes. They typically wore robes and a cap (*peci*).

51 Interview with KH Buchori on October 17, 2011.

At 2.05 PM, the Aswaja mob had already begun entering the pesantren area. They were shouting various insults against Shiites and terrorized the students inside the pesantren. The mob began coming through the main gate and pelted the pesantren with rocks, breaking the glass of the pesantren's guard post and guest room. The mob also attacked the guard post.

The students attempted to stop the mob, which was becoming increasingly violent. The students were only trying to prevent the mob from causing greater damage to the pesantren's facilities and buildings. A clash was unavoidable. The students and the Aswaja mob in stone threw rocks at each other in the pesantren yard. Four students and two employees people suffered serious injury and had to be rushed to Masyitoh Bangil hospital for examination, and one victim was referred to Undaan Eye Hospital in Surabaya.

The Aswaja mob was eventually pushed out of the boarding school area. Intelligence officers at the scene fired warning shots to disperse the attack mob. Only at 2.30 PM did a unit from Beji and Pasuruan police precincts arrive at the scene of the incident. The police unit arrived once the Aswaja group had ended their assault. Irjen Untung S. Radjab, East Java police chief at the time, came directly to the location and held a meeting with elements from Muspida and the YAPI head at the pesantren office.⁵²

In the official report from East Java Police, the attack on YAPI was considered to be an old conflict that had been repeated. Regardless that the police had already sensed that there would be an attack, the police had not taken any meaningful steps to anticipate the attack, and this resulted in casualties. The police eventually declared that there were three suspects in the attack. []

52 Outside of the monitoring period. Since this report was released on December 19, 2011, and published in book form in February 2012, further developments in the Shiite case are not recorded in the 2011 report. We now know that Pesantren Misbahul Huda in Nangkenang, Sampang, Madura, was eventually burned down by a mob on December 29, 2011 at around 9.15 AM. A week before, there had been a threat of arson made against this pesantren by several ulema and the surrounding community, who had continued intimidating and terrorizing Shiite followers in Sampang, Madura. The arson against the pesantren also spread to include several homes of Shiite followers, including the home of Sampang Shiite leader, Uztad Tajul Muluk.

CHAPTER 4

Conclusions and Recommendations

1. Conclusions

1. In 2011, the SETARA Institute recorded 244 cases of violation of freedom of religion and belief, consisting of 299 specific acts. Of these 299 acts of violation of freedom of religion and belief, there were 105 state acts involving state administrators as actors. Of these 105 state acts, 95 were acts of commission and 10 were acts of omission.
2. Most events occurred in the months of March (48) and February (45). The high frequency of events in these two months arises from the serious impact of an assault on Ahmadiyah followers in Cikeusik, Pandeglang, Banten and the burning of a church in Temanggung. These two events laid the ground for further incidents that were destructive and widespread, and involved state actors.
3. In 2011, the state not only allowed but actively engaged in violations of freedom of religion and belief. For instance, in the Cikeusik incident, the police and army in West Java were invited to become involved in handling and 'cleaning up' Ahmadiyah. Operation Sajadah in West Java was an army initiative. As for non-state actors, the public (whose affiliation was not identified)

was recorded as the group most frequently committing violations (with 80 acts). And a number of Islamic organizations were also still dominant violators. Intolerant aspirations represented by certain Islamic organization have spread to the public with a large number of the public involved in violations of freedom of religion and belief.

4. Violations of freedom of religion and belief in 2011 afflicted Ahmadiyah followers the most, with 114 incidents, followed by Christians (54 incidents), and mistreatment of groups with religious minority belief (38 incidents).
5. There was no progress whatsoever throughout 2011 in relation to state efforts to guarantee freedom of religion and belief. The state opted for political discrimination in handling the various religious dynamics. The failure of the state to protect pluralism is strongly reflected in its machinations under the leadership of Susilo Bambang Yudhoyono, who has restricted himself to the politics of words without any real action. Susilo Bambang Yudhoyono has allowed institutional discrimination against Ahmadiyah by local governments, which have issued a variety of discriminatory regulations. Susilo Bambang Yudhoyono has also been powerless in the face of pressure from organizations with political aspirations of intolerance in the case of GKI Taman Yasmin in Bogor, failing to take any initiative whatsoever to resolve the violence and discrimination against the GKI Taman Yasmin congregation.
6. Judicial bodies in 2011 also made no serious contribution to promoting the guarantee of freedom of religion and belief by upholding the principle of an independent judiciary. In cases of attacks on Ahmadiyah followers in Cikeusik, the judiciary showed clearly that the institutions of the police, the prosecutor's office, and the courts are not operating independently and are subordinated by pressure from a mob.
7. Aside from these specific incidents during 2011, cases involving discrimination have also afflicted many other community

groups. The nine cases presented individually in this report show that from year to year there has been no concrete movement by the state to address the issue of freedom of religion and belief. Consequently, in addition to perpetuating discrimination and violence, similar cases continue to reoccur, and are even becoming more widespread.

2. Recommendations

1. President Susilo Bambang Yudhoyono should optimize his remaining term of leadership to work to strengthen pluralism and guarantee freedom of religion and belief by taking affirmative and progressive action to handle actual cases that are still unresolved. This breakthrough is intended to break the chain of discrimination and violence that continues to occur. The breakthrough is also directed towards action by the Indonesian President to cancel various discriminatory regulations in the regions.
2. The Government together with the House of Representatives (DPR) of the Republic of Indonesia should create a Bill on Eradication of Religious Discrimination that can become the operational cornerstone for taking action against all crimes related to violations of freedom of religion and belief, rather than creating a Bill on Religious Harmony in the spirit of segregation that would trigger permanent disharmony.
3. Specifically in the sphere of legislation, the leadership of President Susilo Bambang Yudhoyono should be serious in optimizing the deliberative process on the Bill on Handling Social Conflict, the Bill on Mass Organizations, the Bill Deliberating the Law on Crimes of Terrorism, and the Bill on Religious Harmony (which under the SETARA Institute's framework would be proposed as a Bill on Eradication of Religious Discrimination). Each of the four Bills above has should have a section that can be used positively to encourage and reinforce tolerance, including various mechanisms for handling many aspects relating to the

- guarantee of freedom of religion and belief.
4. The Indonesian Ministry of Home Affairs, Ministry of Social Affairs, RI, and Ministry of Religious Affairs should together draft a regulation that regulates a mechanism for restoration of the rights of victims of violations of freedom of religion and belief. This is because as yet not a single state responsibility has been met in terms of fulfilling the rights of victims of human rights violations.
 5. The Indonesian Ministry of Foreign Affairs should initiate efforts to invite the UN Special Rapporteur on Freedom of Religion and Belief to perform an audit on advances in the right to freedom of religion and belief and to provide an alternative report on the actual state of freedom of religion and belief in Indonesia. Investigations using international instruments such as UN Special Rapporteurs are sorely needed in the context of strengthening new state policy to uphold the guarantee of freedom of religion/belief.
 6. The police, public prosecutors, and court institutions should be able to maintain the integrity of judicial institutions that are independent; and enhance their capacity to handle cases involving violence in the name of religion. Some kind of special training for the judicial apparatus requires attention.
 7. Leaders of religious organizations should reinforce education on tolerance and undertake to engage with organizations that promote political aspirations of intolerance so as to moderate their views and actions with respect to freedom of religion and belief. At the same time, mainstream religious organizations should enter the realm of public intolerance with new messages of tolerance and humanism.

Bibliography

Books, Research Reports, and Articles:

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

Glossary on Violence Against Women as Human Rights Violations, Jakarta, National Committee on Women's Rights (*Komnas Perempuan*), 2006.

Hasani, Ismail, et al., *Ahmadiyah dan Keindonesiaan Kita [trs. Ahmadiyah and Our Indonesianness]*, Jakarta, Pustaka Masyarakat Setara, 2011

_____, *Wajah Para Pembela Islam [trs. Faces of the Defenders of Islam]*, Jakarta, Pustaka Masyarakat Setara, 2010.

International Crisis Group, *Implications of Ahmadiyah Decree*, Update Briefing, July 7, 2008

Phillipson, Gavin, "The Human Rights Act, 'Horizontal Effect' and the Common Law: A Bang or a Whimper?" *The Modern Law Review*, Vol. 62, No. 6, November 1999.

Siegel, Jim, in *Islamic Shariain Aceh*, *Jurnal Gelombang Baru [trs. New Wave Journal]* Issue IV 2009, Banda Aceh, p. 103.

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

Ugang, Hermogenes, *Menelusuri Jalur-Jalur Keluhuran: Sebuah Studi Tentang Kehadiran Kristen di Dunia Kaharingan di Kalimantan*

[trs. *Tracing the Path of Nobility: a Study on the Presence of Christians in the Kaharingan World in Kalimantan*], BPK Gunung Mulia, Second Edition, 2010.

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

Legal Documents:

1. 1945 Constitution of the State of the Republic of Indonesia
2. Minutes of Constitutional Court Decision Hearing on Testing Law No. 3/2006 on Religious Courts, Case Number 19/VI/PUU/2008, Tuesday, August 12, 2008
3. General Comment No. 22 on Article 18, UN Human Rights Commission, 1993
4. Law No. 12 of 2005 on Ratification of the International Covenant on Civil and Political Rights
5. 1981 Universal Declaration on Eradication of Intolerance and Discrimination Based on Religion or Belief
6. Law of the Republic of Indonesia No. 39 of 1999 on Human Rights
7. Law No. 1/PNPS/1965 on Preventing Religious Abuse and/or Desecration

Media News:

www.analisadayly.com(21/09/2011)

<http://harian-aceh.com/2011/09/24/20-ribu-warga-aceh-pindah-religion>

<http://atjehpost.com/nanggroe/daerah/2575-wagub-saksikan-19-warganya-dicambuk-.html>

http://waspada.co.id/index.php?option=com_content&view=article&id=184908:aceh-miliki-210-ribu-santri&catid=13&Itemid=26
(last accessed on 27 November 2011)

<http://bppd.acehprov.go.id/index.php?kategori=fikrah&linkjudul=mukhlissuddin-ilyas> (last accessed on 27 November 2011)

<http://www.mataaceh.org/rudi-779-studi-banding-badan-dayah-kuras-apba-rp-954-juta.html> (last accessed on 27 November 2011)

Modus Tabloid, No.06/TH. VI Week IV, May 2008 –*Sekali Lagi Cerita Khalwat di Negeri Shariah [trs. Another Story about Seclusion in the Land of Sharia]*

www.bahai.org

<http://www.temanggungkab.go.id>

www.presidentri.go.id, “Presiden Minta Usut Segera Pelaku Kerusuhan Temanggung” [*trs. “President Asks that the Perpetrators of the Temanggung Riot Be Investigated Immediately”*] Tuesday, February 8, 2011

Ministry of Home Affairs: Mass Organization Leaders Behind the Riot in Temanggung, *Koran Bogor.com*, February 11, 2011

Syahadah: Newsletter on Religious Freedom, Issue 3/2009.