

# REPORT FOR THE CONDITION OF FREEDOM OF RELIGION AND BELIEF STATUS IN INDONESIA

## PREFACE

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1. This report is prepared by a number of CSOs concentrated on issues of freedom of religion and belief in Indonesia, i.e.: Human Rights Working Group (HRWG), LBH Jakarta (Jakarta Legal Aid Institute), The Wahid Institute, The Indonesia Legal Resource Center (ILRC), Setara Institute, ELSAM, and Center for Marginalized Communities Studies (CMARs).
2. This report was also disseminated in a National Workshop on November 11<sup>th</sup>, 2011 to pull together outlook and input from CSOs.
3. This report is arranged based on 2008 UPR Working Group to continuously provide protection for the entire components of Indonesian society. (Recommendation, paragraph 77.5), particularly concerning threats and violence against Ahmadiyya Congregation (Jemaah Ahmadiyah) in Indonesia, as well as the development of freedom of religion and belief status in Indonesia, as asserted in the recommendation, paragraph 78.

## A. LEGAL FRAMEWORK

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1. The right of freedom of religion/belief possesses strong juridical footing. Indonesia has laws and regulations as the foundation for recognition, protection, respect and promotion of Human Rights, including within it the right of freedom of religion and belief. Nevertheless, there are many national legislation products threatening freedom of religion and belief.

### Regulations that Guarantee Freedom of Religion and Belief

2. The Constitution of the Republic of Indonesia, Article 29 line (2) declares: “*The state guarantees each and every citizen the freedom of religion and of worship in accordance with his religion and belief*”. Article 28E Constitution of the Republic of Indonesia, acknowledges every person’s freedom to hold religion and practice the religion of his choice, to choose education and schooling, and has the right to be free in his convictions, assert his thoughts and tenets, in accordance with his conscience. The Constitution incorporates the freedom of religion/belief as “Human Rights that cannot be derogated in any circumstances (*non-derogable rights*)”.
3. In the Legislation No. 39/1999 concerning Human Rights says that freedom of religion/belief is a part of Human Rights and cannot be derogated (Article 4 Human Rights Law) Article 22 of Human Rights Law guarantees freedom of religion, that: (1) *Everyone has the right to freedom to choose his religion and to worship according to the teachings of his religion and beliefs;* (2) *The state guarantees everyone the freedom to choose and practice his religion and to worship according to his religion and beliefs.* Followed by Article 55 of the Law guarantees child’s right to hold his religion: “*Every child has the right to practice his*

*religion, and to think and express himself as befits his intellectual capacity and age under the guidance of a parent or guardian”.*

4. In the Legislation No. 23/2003 concerning Child Protection also regulates on right of freedom of religion and belief professed by each child. Every child has the right to practice his religion according his religion under the guidance of parent and the State/Government has obligation and is responsible for respecting and guaranteeing every child’s rights without any background discrimination (Article 6 and 21). The Act also guarantees the protection to practice religion according to the child’s religion, including protection for child who cannot yet decide his choice, as well as in organizing child nursing and care, the Government is obligated to strive for and facilitate children so as to children can be free to express their opinion and to think according to their conscience and religion. The Child Protection Act also acknowledges special protection for child of minority and isolated groups, by providing facilities and infrastructures to profess and practice his own religion and everyone is prohibited from preventing child from professing and practicing his religion.
5. Specifically some articles in Indonesian Penal Code (KUHP) imply the existence of protection for freedom of religion or belief, one other thing is Article 156 *jo* 157 concerning spreading of hatred against a group of population (*based on race group, native country, religion, place of origin, descent, and nationality or position according to state administration*) and Article 176 on preventing a religious meeting/activity.
6. Law No. 20/2003 concerning National Education System in Article 12, line (1), letter *a* guarantees every child to obtain education in accordance with his religion. This article stipulates: “Every schooling participant has the right to obtain religious education in accordance with the religion he profess and to be taught by teacher of the same religion as his”.

### **Regulation that Curbing and Threatening Freedom of Religion/Belief**

7. Law No.1/PNPS/1965 concerning Prevention of Mistreatment and/or Blasphemy of Religion is frequently utilized by the Government to restrain the right of freedom of religion and belief. Article 1 of Law No.1/PNPS/1965 prohibits every person to tell interpretation or to conduct activity that deviated from the main teachings of the 6 (six) official religions. While Article 2 provides authority for the Minister of Religion, Home Minister, and Attorney-General to give warning to someone in order to stop outlawed activity in keeping with Article 1 and for the President to close down organization or sect of belief who violates the stipulation of Article 1. The perpetrator who violates Article 1 above is threatened with 5 years of imprisonment for the utmost sanction.
8. Law No. 1/PNPS/1965 happens to be the basic existence of Article 156a of Indonesian Penal Code (KUHP) concerning the prohibition of “deviated” interpretation on certain acknowledged religion in Indonesia. Article 156a of Indonesian Penal Code (KUHP) is also utilized as a clause in criminalizing minority groups of religion/belief with excuse of defamation of authorized religions.
9. Law No. Number 23 of 2006 concerning Population Administration (Article 8(2), 61(4), and 64(2)) also emphasizes the acknowledgement of 6 official religions in Indonesia as the

identities of citizens, accordingly it discriminates personal identity of other religion/belief/faith groups.

10. Several other regulations and policies that threaten freedom of religion and belief among other thing is 3 Ministries Joint Decree in 2008, which in essence it prohibits activity and dissemination of Ahmadiyya Congregation in Indonesia. Local Government Regulations and Decrees (in levels of Provinces and Regencies/Cities) that forbid activity and dissemination of Ahmadiyya, as well as policies that in principle have violated the standard of national and international Human Rights, such as the Decree concerning annulment of permit and prohibition of constructing worship house. (*Annex 1*)
11. From a number of legislations above, in practice:
  - a. The State/the Government are still inclined to employ articles that violate freedom of religion, instead of employing regulations that guarantee freedom of religion. In the same way that the legislation of prohibiting hate speech, which is regulated in Article 156 *jo* 157 of Indonesian Penal Code (KUHP), has never been implemented in taking action against the perpetrators, in some cases the Government is actively involved in perpetrating hate speech.
  - b. The Government continually exploits Law No. 1/PNPS/1965 in addressing difference of opinions in religion/belief; therefore the policies taken are the banning, curbing, and even criminalizing it, instead of using articles that provide protection and guarantee for freedom of religion. As example in this case are the Government's position against Ahmadiyya and other groups.
  - c. Until now there are still occur discriminative policies against minority religion/belief/faith groups in Population Administration. The policy is derived from Law No. 1/PNPS/1965 and Law No. 23/2006 on Population Administration, thus the right of religion/belief of certain beliefs is not acknowledged. As example, the case of ID card making that instigates many other rights to be overlooked because they have been obstructed by ID card (administration) prerequisite.
  - d. The organizing of education based on Legislation concerning National Education System that guarantees each of schooling participants to obtain religious education in accordance with his religion, however in reality it is not applied for other minority faith and religion/belief groups, moreover in providing teacher compliant with his religion.

### **Recommendation**

12. **First**, urging the Government of Indonesia to implement the Constitution that guarantees freedom of religion and belief in Indonesia maximally, specifically Article 28E and 29 (2) of the Constitution, as well as several Laws that also give such guarantee, for instance the Human Rights Law. **Second**, urging the Government to revise legislation and policy that threaten freedom of religion and belief, such as Law No. 1/PNPS/1965 and Law No. 23/2006 (Population Administration). Specifically, concerning revision to Law No. 1/PNPS/1965 as in Constitutional Court's Decree No. 140/PUU-VII/2009 of 2010. **Third**, urging the Government to abolish Article 156a of Indonesian Penal Code (KUHP), 3 Ministries Joint Decree concerning Ahmadiyya and Local Government regulations that

threaten freedom of religion and belief. **Fourth**, implementing religious education according to the teachings of each person's religion and belief as in Article 12 (1) of National Education System Law, including within it providing teacher in reference to each religion/belief.

## **B. SERIOUS ISSUES AND THEMES OF IMPLEMENTATION AND CASES OF THE FREEDOM OF RELIGION AND BELIEF IN INDONESIA**

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### **DEFAMATION OF RELIGION**

13. In Indonesia, every person who commit practice and interpretation of religion outside the majority mainstreams is considered as perpetrating blasphemy and committing defamation of religion, based on Law No.1/PNPS/1965, and criminalized based on Article 156a of Indonesian Penal Code (KUHP).
14. Based on Law No. 1/PNPS/1965, the authorization to monitor, consider, and prohibit religious practices and interpretations outside the majority mainstream is performed by Attorney General. Subsequently, Attorney General assembles Monitoring of Spiritual Beliefs in Society Task Force (Bakor Pakem) based on Decree No. KEP-004/J.A./01/1994 which in national level, its members are comprised from Home Ministry, Ministry of Education and Culture, Attorney General Office, Ministry of Religion, Ministry of Justice, National Army Headquarter (TNI), National Intelligence Agency (BIN), and National Police Headquarter.
15. There are several characters of practice occurred in defamation of religion. First, the State intervened freedom of religion and belief that contradicts with the Constitution and Human Rights principles. Second, in various cases, the action taken by the Government was an abuse of power, because often it was based on request of certain vigilante groups without specific measurement and not fulfilling legal procedure. Third, in practice, the Government's action was based on political interests at national and regional levels.
16. In addition, the existence of 'deviant' *fatwa* issued by Indonesian Ulema Council (MUI) arbitrarily constituted a legal basis for the Governments (national and local) to criminalize minority groups in the name of religious defamation. In addition to that, fatwa MUI was used as a reason for radical Islamic groups to perpetrate various violent acts against minority groups.
17. Several examples of criminalization cases of religious defamation derived from Law No. 1/PNPS/1965 Jo. Article 156a of Indonesian Penal Code (KUHP), among other things are the Verdict of High Court of Padang concerning Qiyadah Islamiyah followers (2008), prohibition of Gernard Meliala in North Sumatra (January 2009), Drs FX Marjana (2009), arrest of the Leader of *Nabi Akhir Jaman* (End of Time Prophet) cult - Danan Aritonang in Medan (January 2011), arrest of *Satria Piningit* sect in Jakarta (January 2009), arrest of the Leader of Praying Group of *Sion Kota Allah* and 9 of his followers (May 2009) and the closing down of Tarikot Qodariyah Naqsabandiyah cult in Pandeglang, Banten by MUI and Bakorpakem, and case of Richmond Bawengan (February 2011). In addition to those cases

above, there are statements, encouragement and pressures from Local Government and Regional MUI to Bakorpakem to disperse or punish the cults which were considered as deviant and disturbing the public.

### **Judicial Review/Effort conducted by Civil Society**

18. In 2010 Constitutional Court decided that Law No.1/PNPS/1965 to be revised in order to guarantee further the freedom of religion and belief. This Constitutional Court's decision was based on judicial review proposed by civil society.
19. Until now, the decision of Constitutional Court has never been executed effectively by the Government, and in practice the Law No.1/PNPS/1965 is still applied.

### **Recommendations**

20. Recommendations; First, urging the Government of Indonesia to implement the decision of Constitutional Court to revise the Law No. 1/PNPS/1965, and to declare the law inapplicable. Second, urging the Government of Indonesia to disperse the Monitoring of Spiritual Beliefs in Society Task Force (Bakor Pakem), because it contradicts with the Constitution, Human Rights principles, and in practice become the only institution perpetrating the expropriation of freedom of religion and belief in Indonesia. Third, urging the Government of Indonesia to abolish MUI 'deviant' *fatwas*, because they are contradict with the Constitution, and enforcing the law if the fatwa is proved to have raised various violent acts against minority groups.

## **DISCRIMINATION AND VIOLENCE AGAINST AHMADIYYA**

21. One of significant issues and that it dominated religion/belief-based violence between 2008 - 2011 is violence case against Ahmadiyya Congregation.
22. The escalation of violence and violation against this group increased since the release of MUI fatwa in 1980, and Fatwa MUI of 2005 declaring that Ahmadiyya is deviant and strayed and subsequently asking the Government to outlaw the dissemination of Ahmadiyya in Indonesia and to freeze down the organization and its places of activity .
23. Later in 2008, Home Minister, Minister of Religion, and Attorney-General issued Joint Decree (SKB) which contained limitation of worship activity and dissemination of Ahmadiyya Congregation in Indonesia. This SKB triggered the occurrence of various regional regulations (in Province and Regency/City levels) that forbid activity and dissemination of Ahmadiyya. (*Annex 2*).
24. 3 Ministries Joint Decree also triggered the increase of violence against Ahmadiyya Congregation perpetrated by vigilante groups (Islamic-radical). The data compiled by Jakarta Legal Aid Foundation and HRWG since 2008-2010 records 77 cases of violence.
25. Based on Setara Institute's monitoring result, there are 271 types of breach that have been perpetrated against Ahmadiyya Congregation communities in period of 2008-2010, such as murder, eviction, expropriation of property, outlawing worship, sealing of mosques.

## Example of Violence Practice against Ahmadiyya

### 26. Common character of breach against freedom of religion;

Violation against freedom of religion and belief against Ahmadiyya was perpetrated systematically in the form of persecution. The variety of persecution among other things is;

- a. The existence of attack and violence, whether verbal violence, including: harassment against Ahmadiyya women, hate speech, intimidation; and physical violence, such as the difficulties in order to obtain civil registration service, destruction over property, closing down of mosque, burning down, forced eviction, and murder. Those violent acts are not only happened in one region, but almost in every region in Indonesia.
- b. The existence of State Policies that discriminate and legitimize it in the form of regulations and policies at national and regional levels.

### 27. Several cases of violence and attack against Ahmadiyya's residence and area up to 2011 are:

- a. In Lombok, West Nusa Tenggara, in 2001 there was an attack against Ahmadiyya quarters and caused 379 people of Ahmadiyya Congregation to be forcefully driven out toward the former Praya Hospital and Wisma Transito Mataram, which **until now there are still approximately 157 people of Ahmadiyya Congregation who still inhabit the refuge.**
- b. In 2005, annual meeting (Jalsah Salanah) which was organized in JAI Headquarter of Parung, Bogor was forcefully dispersed by Islamic radical group, the Police and Municipality Police Unit. Until now, JAI office is still in sealed off condition.
- c. On February 6<sup>th</sup>, 2011 JAI community in Cikeusik-Banten was attack and some were brutally killed. They were brutally abused, which caused 3 people killed, 16 others injured, 1 house destroyed and 2 cars were burnt.

### 28. Moreover, **attack and closing down of worship house** were also imposed over Ahmadiyya Congregation Indonesia, whether by the Government or Vigilante groups. From 2008 to 2011, there are several cases of attack and closing down of JAI worship house, i.e. in Cisalada-Bogor, Sukapura-Tasikmalaya, Kuningan Regency, Depok, and Ciamis – All in West Java Province, and in Makassar- South Sulawesi.

- a. Monday, July 12<sup>th</sup> 2010, the construction to widen JAI mosque in **Cisalada, Ciampea Udik, Ciampea, Bogor** was ceased by Municipality Police Unit by cutting the metal shafts to be use as foundation of the mosque. The demolition was lead by Head of Ciampea Sub-district along with 24 members of Municipality Police Unit and helped by police officers from District Police Station (Polsek) and Sub-Precinct Police Station (Polres) of Bogor amounting to 300 personals. Later on July 12<sup>th</sup>, 2010, thousands of Cisalada population surrounded the JAI location in Cisalada, Ciampea Udik village, Ciampea Sub-district, Regency of Bogor. They demanded to have the worship house, school and foundation of the mosque demolished.

- b. January 10<sup>th</sup>, 2008 FPI mass perpetrated destruction over Baitul Rahim mosque, Cipakat Cipasung Singaparna, Tasikmalaya Regency. One year previously, JAI Mosque of Sukapura Tasikmalaya was also demolished.
  - c. July 29<sup>th</sup>, 2010 a JAI mosque (An-Nur) and 6 *mushala* were sealed off in Kuningan. On July 8<sup>th</sup>, 2010 Regent of Kuningan has delivered the plan of sealing off Ahmadiyya Congregation's mosque and mushala, by reasoning of protecting conducive situation and in order to avoid Human Rights violation for the second time, and anchored in the recommendation of Indonesia Ulema Council number 38/MUI-Kab/VI/ 2010 (June 24<sup>th</sup>, 2010). Equipped with Regent's Instruction No. 451.2/2065/ SAT POL PP dated on July 23<sup>rd</sup>, on July 26<sup>th</sup>, 2010 and July 28<sup>th</sup>, 2010 the Municipality Police Unit members executed the sealing.
  - d. October 29<sup>th</sup>, 2010, Regent of Ciamis-West Java, Engkon Komara and Council for Provincial and Lower Level Government Officials (Muspida) elements, committed a deal with FPI Ciamis to outlaw Ahmadiyya residents to conduct religious activities in Ahmadiyya mosque on Jalan Cipto Mangunkusumo Dusun Pakuncen Village/Sub-district of Ciamis. This deal was adopted after FPI had wanted to seal off Ahmadiyya mosque for the reason that it was considered as violating 3 Ministries Joint Decree of 2008.
  - e. In Depok-West Java, forceful sealing off and closing down were also happened in March 2011. The mosque until now cannot be used anymore because the congregation was threatened to be other victim such as what has happened in Cikeusik by the group (Vigilante) who perpetrated the forceful closure.
  - f. In East Indonesia (Makassar), forceful closure of mosque in Makassar was directly led by Chief of Provincial Police of Makassar, although there has never been any instruction from court order to execute the closure.
29. Various violence cases occur have received attention from international communities through various UN mechanisms particularly the Special Procedure and attention from various fellow countries. However, practices of violence are still happened and there has not been any effective and significant measure to protect Ahmadiyya Congregation and to take firm action to punish the violence perpetrator.

## **Recommendation**

30. **First**, Urging the Government of Indonesia to guarantee and protect Ahmadiyya Congregation from all forms of violence act. **Second**, urging the Government of Indonesia to eradicate regulation or policy that cause violence habit against Ahmadiyya Congregation (Law No.1/PNPS/1965, 3 Ministries Joint Decree, and various regional regulations). **Third**, urging the Government of Indonesia to implement effective legal process against violence perpetrators. **Fourth**, urging the Government of Indonesia to grant effective remedy in all aspects of life for Ahmadiyya Congregation including their properties (worship houses, homes, etc). **Fifth**, urging international community to conduct monitoring and expect the Government of Indonesia to respect and guarantee the rights of Ahmadiyya Congregation Indonesia.

## **ABUSE OF POWER TOWARD INDONESIA CHRISTIAN CHURCH (GKI) TAMAN YASMIN BOGOR**

31. Congregation of GKI Yasmin has obtained Construction Permit (Church) from the Mayor of Bogor - Diani Budiarto - in 2006; however, in 2008 the construction permit (IMB) was frozen. Due to the permit freezing, GKI Yasmin congregation could not practice worship in their church.
32. Then GKI Yasmin Congregation fought through legal channel. The fight was won by GKI Yasmin party, both at the High Administrative Court and Supreme Court levels. Nevertheless, the Government of Bogor continues to ban GKI Yasmin to practice worship in their church.
33. On the incidents of defiance committed by Government of Bogor City, GKI Yasmin Congregation has reported to Commission III of the House of Representatives of the Republic of Indonesia, the Ombudsman, and National Commission on Human Rights. Ombudsman has twice sent letters to the Mayor of Bogor in 2010 that questioned the implementation of the High Administrative Court Bandung's decision. Due to the noncompliance of Government of Bogor City, on July 8<sup>th</sup>, 2011 the Ombudsman recommended Mayor of Bogor to annul the Decree concerning the Construction Permit withdrawal, require him to execute the recommendation, and for the Home Minister to apply monitoring over the implementation of the recommendation, with carbon copy to the President and House of Representatives of the Republic of Indonesia.
34. In the series of legal process mentioned above, Mayor of Bogor, Home Minister, President and House of Representatives did not conduct any concrete measures toward the implementation of the court verdict and recommendation from various state institutions. Even, the Mayor of Bogor committed provocative acts and gave "facility" for vigilante groups (hard-line Islamic groups).
35. As the result of the Mayor's acts, GKI Yasmin congregation received terror, intimidation, hatred incitement from vigilante groups that still continue. It has been run since April 2010 to November 19<sup>th</sup>, 2011, which caused GKI Yasmin congregation have to practice worship on the sidewalk of the church, that legally owned by them. And it has been recorded that they have practiced worships for 65 times from April 11, 2010 until November 13, 2011.
36. GKI Yasmin case also receives attention from the UN mechanisms especially the Special Procedure and attention from many fellow countries. In spite of this, there has not been any concrete action taken by the Government of Indonesia even particularly in the practice of Government of Bogor in 'facilitating' violence.

### **Recommendations**

37. **First**, urging the Government, specifically the President of the Republic of Indonesia, Home Minister and Mayor of Bogor to obey the final verdict of Supreme Court and implement the recommendation from Ombudsman and National Commission on Human Rights. **Second**, urging the Government to take legal and administrative measures upon Mayor of Bogor. **Third**, urging international community to conduct monitoring and expect the Government Indonesia to respect and guarantee the rights of GKI Yasmin congregation.

## **THE RIGHT TO CONSTRUCT HOUSE OF WORSHIP**

### **The Policy of Constructing Worship House in Indonesia**

38. The policy concerning worship house is regulated in the Joint Decree of Minister of Religion and Home Minister (2 Ministries Joint Decree). There are requirements that have been established in the 2 Ministries Joint Decree relating to the construction of worship house, i.e.: fulfilling administrative requirements and technical requirements of building construction, plus fulfilling special requirements, comprising: 1) list of names and ID cards of the constituents of the worship house for at least amounting to 90 (Ninety) people, which have been authorized by local government official; 2) support from surrounding community for at least amounting to 60 (sixty) people, which have been authorized by Head of Village; 3) written recommendation from Head of Religion Department of the Regency/City; and 4) written recommendation from The Communication Forum of Religious Community (FKUB) of the Regency/City.

### **The Facts that Contradicts with Policy**

39. Violations of right of freedom of religion and belief were also happened in the cases of worship house construction. Those forms of violation start from (a) prohibition, discrimination of permit and obstructions in constructing the worship house, although all of the requirements are fully accomplished; (b) terror and threats of violence against the congregation; (c) prohibition to use the worship house; to (d) arbitrary sealing and closing down, whether committed by the Government or Vigilante groups.

40. According to Setara Institute's report, in 2008, there were 17 incidences; in 2009, there were 18 incidences. In 2010, there were 27 cases of banning and attack against worship houses (specifically against the Christians).

41. The problem of worship house construction also bears several cases of violation against freedom of religion and belief; among other things are: violence, intimidation, stigmatization, eviction, etc. several examples of those cases are

### **42. The Case of HKBP Ciketing Church**

a. Congregation of HKBP Ciketing is one of Christian groups who are still impeded to construct their worship house until now, despite the fact that they have been attempting since 1990. The impediment is sourced from two directions, from the Government of Bekasi City by sealing off the worship house on Jalan Puyuh Raya No. 14 and from a group of vigilante mass, which wearing "Islamic" attributes and white uniforms.

b. Because of the intensity of force and eviction from the Local Government and residents, since July 10<sup>th</sup>, 2010, HKBP moved to Ciketing Asam, Mustika Jaya, Bekasi, and planned to apply for the construction permit of building a worship house. Although they have fulfilled all the obligatory requirements, the permit is still being impeded; even the resist from vigilante group still happens. When the congregation has moved to Ciketing and conduct worship there, the rejection of vigilante mass was accompanied by attack

and violence to prevent the congregation from worshipping. Due to this incident, most of female HKBP congregations suffered injuries; on the other hand the local Police only watched and let the violence acts continued.

- c. Act of intolerance from the vigilante mass was also end up in the stabbing of one of HKPB congregation (which is Mr. Asia Lumbantoruan Sihombing), when the congregations were walking together to Ciketing from Jl. Puyuh Raya 14, by one of motorcycle-convoy members wearing whites who brushed past the congregation group. Owing to this incident, the stabbing perpetrator was only punished with 6 months of imprisonment, lighter than the sanction of religion defamation indictment and it did not cause sense of dismay.
43. The annulment of Construction Permit (IMB) committed by the Mayor of Depok against HKBP Cinere through the Letter number 645.8/144/Kpts/Sos/Huk/2009. In fact the planning process of the church construction has accomplished all the requirements as stipulated in the Joint Decree and received recommendation from FKUB of Depok. The withdrawal of construction permit was without any reason at all, except from the pressure of certain groups in the name of Cinere Islamic Solidarity Forum.

### **Violation by the Government**

44. Based on the cases of attack and forceful closing of worship houses in Indonesia, the level of Government's involvement can be categorized into two levels:
- a) The Government actively or directly committing violation. In the cases mentioned above, the Government systematically committed violations against freedom of religion, practicing religion, and constructing worship house within various forms: (a) annulling Church's construction permit or not issuing Church's construction permit; (b) Police officers and the Government committing sealing off and or closing down of church; (c) committing repressive actions to disperse the worship practiced by the church congregation; (d) lack of concrete action from the central Government (Home Minister) to handle the issue of worship house construction, particularly in relation with regional Government. (e) The Government (Ministry of Religion, the Police) even provide support for vigilante groups to perpetrate terror and violence.
  - b) The Government commits neglect; among other things are: (a) lack of anticipation or prevention from the Police against the attack perpetrated by the vigilante; (b) there is not any serious investigation process to prosecute the perpetrators both at police and district attorney levels.
  - c) The central and regional Governments frequently conform to the wish of majority religion groups. In the construction of worship house, although they have fulfilled the stipulation of regulation, but since there is rejection from majority of population, the Government instead obeys the wish of certain group although it is against the law. The case of GKI Yasmin is the most recent one.

### **Recommendation**

45. **First recommendation**, urging the Government to eliminate policy and practice of discrimination in constructing worship house. **Second**, urging the Government to revise the 2 Ministries Joint Decree concerning the permit of constructing worship house in order to guarantee the rights of minority. **Third**, urging the Government to be consistent to and obey the legislation applies and not abided by vigilante group.

### **C. INDEPENDENCE OF JUDICIARY**

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46. Law enforcement practices toward the violence perpetrator based on religion and beliefs are very dilapidate from the independency, impartiality, security guarantee of the judiciary compare with the result of attack which experienced by the victim. These valuations are based from the pattern which occurred all this time on the judiciary processes. Those patterns are:
- a. To let the practices of violence without making any legal acts even though the law apparatus are among the violence. These occurred in many practices of violence which the police are in place, know the perpetrator, well known the incident, but they don't make any legal action.
  - b. Receive the report/complaints from the victim but there is no follow up from the police.
  - c. Blurred the construction case with keep at the distance from the dimension of religion/faith violence and even made a weak construction so the perpetrator only got a light impence punishment and sentenced for that.
  - d. Using weak articles of criminal, made a light charge which causing a light sentence. This is not proportional with violates, losses, and the victim's suffer. This is happen in the judiciary process of Ahmadiyya Jamaa Cikeusik attack, and Ahmadiyya Jamaa Cisolada attack, also the case of burning the churches in, Central Java.
  - e. Proving construction is not lead to the fundamental events.
  - f. Judges, Attorney, Police in the processes of judicial, are acts unprofessional, dependent, and partial. This conditions are affected by the bias vision of the religious and beliefs rights also there are pressure from the mass who done the violence, directly in the court or indirectly.
47. As the result, there are three characters in the issue of independence of judiciary; **First** to cause the law enforcement processes is not guarantee the fairness to the victims (ease the perpetrator). **Second** to cause the victim as a suspect.

#### **Recommendation**

48. **First** push the Indonesia Government to guarantee the independence of judiciary. Push the Police Force, Attorney, and Judges to act professionally, independent, and impartial. **Second**, push the Judicial Commission to monitors, evaluate, and taking legal acts toward various dependent, partial and unprofessional of the judicial processes. **Third**, push the Police Force and Attorney to taking acts of every police and prosecutor apparatus which violate the principles of Independence of Judiciary. **Fourth**, push the Indonesia

Government to give a rehabilitation or other mechanism to recovering every victim whom criminalized by the sentences.

#### **D. RIGHT OF INDIVIDUAL IDENTITY FOR MINORITY RELIGION/BELIEF GROUPS**

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49. In relation with the right of individual identity for minority religion/belief groups, so far the policy of Government of Indonesia is still discriminative. It is reflected in the service of Population Administration, particularly in identity of religion/belief inside the *ID card*. This act of discrimination also causes various forms of other violations.
50. Although Law No. 23/2006 concerning Population Administration (Adminduk) and Government Regulation No. 37/2007 bring advancement in the fulfillment of rights of faith believers' right in comparison to the previous legislation policy, however there are discrimination acts still happened, particularly concerning the right of personal identity (ID Card and Family Card). One of the reasons is that Population Administration Law still recognizes 6 (six) official religions in Indonesia, therefore the Law does not acknowledge the existence of other religion or belief.
51. The form of discrimination against minority religion/belief is reflected in the writing of religion column in ID Card. For the faith believers, the column of religion shall be filled with (-) symbol and for the faith believers who refuse to write (-) symbol, the officer shall impose them to choose one of official religions acknowledged by the Government. The account for religion in the document also implicates on other discrimination in other administration services, such as registration of marriage, birth certificate, funeral, education, and even social relieve.
52. In the field of education, faith believers must search for schools that can accept their existence, because more than administration problem, the children of faith believers are forced to write counterfeit religion (according to one of 6 religions acknowledged in Indonesia) to be able to enroll. Faith believers' children also face trouble, which is the absence of specific religion education for faith believers. The children are forced to follow religion education according to the existing official religions, that is to say: Islam, Christian, etc, while in reality religion education become one of subject incorporated in the Final Exam of Graduation.
53. Other form of violation suffered by a faith believer who keeps his status of religion/belief is when enrolling as government employee (PNS), police member or Indonesia national army. In this case, the faith believer is considered as unable to fulfill administrative requirement, because his religion/belief is not part of the official religions.
54. The Government of Indonesia recently in the process of generating electronic ID card (E-KTP) that happens to be national policy, but the policy still reflects discriminative practice and when this E-KTP is applied, then the rehabilitation of victims' identities shall be more complicated and cause greater burden.

#### **Recommendations**

55. **First**, urging the Government of Indonesia to eliminate policy and practice of discrimination. **Second**, revising of Law 23/2006 concerning Civil Administration and Government Regulation No. 37/2007 to ensure the elimination of discrimination in the legislation. **Third**, executing moratorium of e-KTP process until acknowledgement of right of identity is realized. **Fourth**, conducting remedy of right of identity and effects of violation caused by it.