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Introduction

1. This report focuses on crucial issues related to the right to freedom of religion or belief (FoRB) in Indonesia and is based on data obtained from several sources: (i) Focus Group Discussion (FGD) among organizations and individuals, members of the Indonesia Interfaith Network (Jaringan Antariman Indonesia, JAII), who gathered at a meeting in Jakarta, 8–10 September 2016; (ii) the monitoring data on FoRB of partner organizations; and (iii) secondary sources such as news, stories and reports from a number of institutions.

2. This report documents key findings related to the right to freedom of religion or belief in Indonesia and makes key recommendations related to the legal framework and policies, criminal prosecution and legal sanctions, the establishment of houses of worship, acts of intolerance, discrimination and violence against minorities. Furthermore, it documents a number of issues related to the rights of women and children, the most vulnerable groups affected by acts of intolerance, discrimination and violence related to religion.

1. The right to freedom of religion or belief: Legal framework and its application

[Regarding the 2012 UPR recommendations: 108.98, 108.99, 108.100, 108.102, 108.103, 108.104, 108.106, 108.111]

3. Until today, the Indonesian government has made no progress to implement the 2012 UPR recommendations to review or revoke regulations that are contrary to or inconsistent with guaranteeing of freedom of religion or belief, the protection of minorities and the principle of non-discrimination. Rules and policies that restrict, prohibit and discriminate against the rights and freedoms of minorities continue to be upheld.

4. The Indonesian constitution guarantees freedom of religion or belief in Indonesia. Article 28E (1) states that every person is free to embrace the religion of their choice, to worship according to their religion or belief and to choose their education and teaching while paragraph (2) states that every person is entitled to freedom of belief and to express their thoughts and opinions in accordance with their conscience. The commitment of this fundamental freedom is affirmed in Article 29 paragraph (2) which states that the state guarantees the freedom of each citizen to profess their own religion and to worship according to their religion or belief.

5. Article 4 of Law No. 39/ 1999 on Human Rights affirms that the freedom of religion or belief as a human right can, under no circumstance, be reduced, and Article 22 states that (1) everyone is free to embrace their religion and to worship according to their religion or belief, and (2) the state guarantees freedom of every person to embrace their religion and to worship according to their religion or belief. Article 55 of the Human Rights Act states that “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.”.

6. Nonetheless, a number of regulations and policies that restrict and undermine the freedom of religion or belief continue to be maintained. For example, Law No. 1/PNPS/1965 on the Prevention of Abuse of Religion and/or Blasphemy is often used to threaten and restrict freedom of religion or belief. Article 1 of Law No. 1/PNPS/1965 prohibits interpretations or activities that deviate from the principal teachings of religion (the six recognized religions). It reads: “Every person is prohibited from intentionally publicly communicating, advocating or seeking public support any interpretation of a religion practiced in Indonesia or conduct religious activities that resemble the activities of religions, interpretations and activities which deviate from the principal teachings of that religion.” This law became the basis for Article 156a of the Criminal Code, which is frequently used to criminalize minority religions and beliefs.

7. The Joint Regulation of the Minister of Religion and the Minister of Home Affairs No. 9 and No. 8 in 2006, sets guidelines as to how regional heads and deputy regional heads are to maintain religious harmony, establish a forum for religious harmony (Forum Kerukunan Umat Beragama, FKUB) and regulate the establishment of houses of worship. This policy is often used to limit the rights of minorities to establish a place of worship on the pretext that administrative procedures have not been respected.

8. The Joint Decree (SKB) of the Minister of Religious Affairs, the Minister of Home Affairs and the General Attorney (No. 3 of 2008, No. Kep-033/A/JA/6/2008, No. 199 of 2008) on “Warning and Instruction to Adherents, Members and/or Leaders of the Indonesian Ahmadiyah Congregation (JAI) and to Citizens” violates the right to freedom of religion or belief. It is widely used to justify intolerance, violence and discrimination against the Ahmadiyah community.

9. The application of Law No. 1/PNPS/1965 on blasphemy has contributed to a number of violations of freedom of religion or belief and overall to the climate of intolerance in Indonesia. Intolerant groups and law enforcement officers use this law to criminalize someone on charges of blasphemy. From 2004 to 2014, the number of criminal cases based on Law No.1/PNPS/1965 drastically increased to 106 people.

10. In 2014, Tajul Muluk, a Shia leader in East Java, was sentenced to four years in prison for blasphemy based on Article 156a of the Criminal Code. Tajul Muluk was forced to leave his village after his community was attacked by hundreds of people in December 2011. On 1 January 2012, a fatwa, issued by the Indonesian Ulema Council in Sampang branch, denounced their teaching as "deviant teachings." With reference to the fatwa, Sampang District Court found Tajul Muluk guilty on 12 July 2012, although the charges could not be substantiated. The Surabaya High Court extended the sentence to four years in prison on 10 September 2012.

11. The Fajar Nusantara Movement (GAFATAR) was established in August 2011. In early January 2014, during an internal meeting in Aceh, the police broke up the meeting and arrested several members of the board. The dissolution of the meeting was based on the Fatwa MPU Aceh No. 1 in 2014, which states that GAFATAR is a deviant organization. The Banda Aceh Supreme Court found five of GAFATAR's board members guilty of blasphemy and detained them for a period of four years. Throughout 2015, rejection and expulsion of GAFATAR members occurred in various other regions in Indonesia: West Papua, East Nusa Tenggara, Bali, Gorontalo, West Nusa Tenggara, South-East Sulawesi and East Kalimantan.

12. On 25 May 2016, the Criminal Investigations Division Police Headquarters arrested three GAFATAR leaders: Ahmad Mushaddeq, Mahful Muis Tumanurung, and Andri Cahya (son of Ahmad Mushaddeq). Their detention was based on reports from the public on 14 January 2016, accusing them of the defamation of religion. Ahmad Mushaddeq was charged under Article 155a and Article 156B of the Criminal Code on blasphemy, which can carry a sentence of up to five years in prison. Andri Cahya and Mahful Muis Tumanurung were charged based on Article 110 paragraph 1 in conjunction with 107 paragraphs 1 and 2 of the Criminal Code, under penalty of life imprisonment, or 20 years for not only religious blasphemy, but also treason.

Recommendations

- Implement the provisions in the Constitution and Law No. 39 of 1999 on Human Rights which guarantees and protects the freedom of religion or belief.
- Repeal laws and policies that restrict religious freedom and belief, especially Law No. 1/PNPS/1965 and the Joint Decree (SKB) of the three Ministers on Ahmadiyah of 2008.
- Review the sentences of those people convicted under Article 156a of the Criminal Code.
- Intensify education and awareness regarding the freedom of religion or belief and the protection of minorities for government, security and law enforcement officials.

2. The right to have a place of worship

[Regarding the 2012 UPR recommendations: 108.101, 108.97, 108.110]

13. The establishment of places of worship is regulated by the 2006 Joint Regulation of the Minister of Religious Affairs and the Minister of Home Affairs No. 9 and No. 8 that sets a number of specific requirements for establishing places of worship. These include: 1) a list of at least 90 names and ID cards of the constituents of the house of worship, who have been authorized by a local government official; 2) the support of at least 60 people from the surrounding community, who have been authorized by the head of the village; 3) written recommendation from the head of the Department of Religious Affairs at the regency/city level; and 4) written recommendation from the Forum of Religious Harmony (FKUB) of the regency/city.

14. Although every religious community clearly has the right to have a place of worship, the state still fails to implement the respective obligations and responsibilities of national and international human rights instruments to guarantee and protect these rights. A number of minority religious communities, denominations and beliefs in a number of areas still face many obstacles when trying to establish a place of worship.

15. The SETARA Institute noted that in the last nine years, 346 places of worship were attacked. These attacks ranged from arson and vandalism to the cancellation of building permission and others. Of the 346 places, 22 were places of traditional religious belief groups, 180 churches, three pagodas, 121 mosques of minority religious denominations, one synagogue, five Hindu temples and 14 Buddhist temples.

16. The lack of the government's awareness at the local level to respect and uphold the rule of law is one reason for discriminatory policies with regard to the construction of houses of worship. This is obvious in the cases of GKI Taman Yasmin in Bogor and of HKBP Filadelfia in Bekasi. Although the legal case had been settled at the Supreme Court level in favor of establishing the church, the GKI Taman Yasmin congregation and the HKBP Filadelfia congregation have not been able to construct the church due to refusal of the local authorities to follow the ruling of the court.

17. In the attempt to resolve the case of GKI Taman Yasmin, a meeting was held in 2016 between the GKI Yasmin church and the Chief of Staff of the President, Teten Masduki, as well as between the GKI Yasmin church and the mayor of Bogor, Bima Arya. Until now it has not been possible to open the church building as had been foreseen by the Supreme Court ruling. The congregation of GKI Yasmin is still prohibited from using the church for religious practices and they therefore still carry out their Sunday service alternatively in front of the governmental palace and clandestinely in homes of their church members in the city of Bogor.

18. There are multiple reasons for closures and destruction of places of worship in Indonesia. Local governments are subject to the pressure of intolerant groups, and the Religious Harmony Forum (FKUB) fails to play an active and constructive role in encouraging the dialogue between religious communities in the case of disputes over the construction of houses of worship. Furthermore, security forces lack firmness in their response to intolerant acts and violence.

19. The FKUB does not actively and constructively promote the right of every religious community to have a place of worship. The dominant religious groups in the FKUB strongly influence the FKUB's decision making. Based on the Joint Regulation of the two ministers, the FKUB is authorized to make recommendations regarding the establishment of houses of worship but, in many cases, the recommendations issued frequently sided with intolerant groups and ignored the rights of religious minorities.

20. Since 2012, worship services in 19 churches in Aceh Singkil have been banned by the Singkil regency on the grounds that they do not have building permission (reported by the National Human Rights Commission in 2015). Church activities were prohibited as some people denied the existence of these churches. Churches were scattered in a number of districts including: Simpang Kanan, Suro, Gunung Meriah, and Lake Paris.

21. In October 2015, some churches in Aceh Singkil were closed and attacked. The series of events began on 6 October in front of the regent's office with a demonstration by a group called Pemuda Aceh Singkil Peduli Islam (Aceh Singkil Youth Caring for Islam) demanding the demolition of the churches that did not have building permission. They threatened the regent or local government that if within one week (13 October) the churches were not closed, they would destroy the churches themselves. They consider that the churches do not have a building permission, as stipulated in the Joint Regulation No. 9 and No. 8 of 2006, as well as Aceh Governor Regulation No. 25 of 2007. But in fact, these churches had been established long before these two rules came into force.

22. According to the Union of Journalists for Diversity (SEJUK), on 9 October 2015 short messages (SMS) were circulated in the community calling for the closure a church in the district of Singkil. The message was apparently part of a series of demands of the demonstrators in front of the regent's office. Responding to the message, the religious leaders of Pakpak Dairi Christian Protestant Church (GKPPD), Pastor Erde Berutu met the regent of Aceh Singkil to ask for protection. He did not get a positive response. The regent of Aceh Singkil, Sapriadi, SE demanded that the Christians in Aceh Singkil comply with the agreement on the limitation of the number of the church building in 1979.

23. On 12 October 2015, after a meeting with members of parliament, the Forum of Religious Harmony (FKUB), scholars and Islamic organizations, the regent of Aceh Singkil decided to demolish 10 unauthorized church buildings. Other churches were instructed to finalize administrative procedures for receiving building permission in the following six months.

24. The day after the decision, on 13 October 2015, a crowd calling themselves Aceh Singkil Youth Caring for Islam gathered and moved to attack the church buildings. They burned a church building of the Huria Kristen Indonesia (HKI) church in the village of Dangguren. As a result of this attack, one resident died from gunshot wounds and four other people suffered injuries. The crowd also closed the access in and out of Aceh Singkil. The security forces (TNI/ Polri) were unable to control the crowd which kept attacking and burning church buildings.

25. As a result of the attack, the church congregations in the District GKPPD Mandumpang Suro were evacuated. Most of the church members of GKPPD Keras, Mandumpang resort are still traumatized by the burning of a church on 18 August

2015. The number of refugees in Aceh reached 5,490, including 4,248 refugees from Sub Banduamas Central Tapanuli, and 1,250 located in the District Bagindar Pak-Pak Barat.

26. On 15 October 2015 the government started to manage the refugees. Four days after returning to Singkil, the government demolished ten churches, because they did not have a building permission. The action taken by the security forces actually represent acts of repression against Christians. The police officers escorted the sealing and destruction of churches. Residents who lost their place of worship constructed tents to worship. However, local authorities also banned and demolished the tents.

27. In North Sulawesi, in Girian Permai, Bitung, the construction of the As-Shuhada mosque was prohibited. The leader of the village did not provide any written explanation and the FKUB refused to give the recommendation to build the mosque based on the alleged rejection by the population. Referring to the same reason, the mayor of Bitung also demanded that the construction of the mosque be stopped. Yet, according to Karmin, the chairman of the mosque construction committee, the requirements of the Joint Regulation of the two ministers had been fulfilled; the local community, 60 Christians and 90 Muslims, had officially endorsed the construction. Further requirements, like the Irar Waqf Tanah certificates, and the recommendation of the Religious Affairs Department had also been fulfilled. The activities of the Muslim community were opposed by the intolerant Christian group from Manguni Brigade, Division of State Defense Waranei. On 9 November 2015, they attacked and damaged the house of the chairman of the construction committee.

28. On 15 June 2016, the Makapetor group demonstrated against the construction of the Al Khairiyah mosque, Texas village, Manado. They demanded the demolition of the mosque and asked the government to construct a religious tourist park instead. At this location there had already once been a mosque which had been demolished because of coastal and urban development. The local government developed a plan for a religious tourist park as a symbol of religious tolerance. Another case is the sealing of the Nurul Fatah mosque in the village of Bobo Karangria, Manado. This happened in response to the relocation decision issued by the FKUB in the city of Manado caused by a land dispute over the building of the mosque.

29. On 28 October 2013 the Protestant church of the Bethlehem congregation in Oeluan, Klasis Timor Tengah Utara, was demolished by a group of people, led by the Brijeg village secretaries, Nicodemus N. and Vincent L. The group attacked the building, damaging the roof of the building, knocking down the nameplate of the church, ruining power lines and church furniture. Tools belonging to the builders were looted. Addressing the event on 2 November 2013, the district government of Noemuti terminated the activities of the church. Furthermore, the local government (Kesbangpo) issued a letter regarding the worship in private houses. The administrative process to receive building permission was started in 2007 and on 12 September 2011 the administrative requirements for the church building were

completed and submitted to the Ministry of Religion and the Religious Harmony Forum (FKUB); these efforts failed.

30. Since 2001, Ahmadiyyah has frequently been targeted by acts of intolerance, discrimination and violence. Some of their mosques were closed or sealed and subjected to demolition. The state policy banning Ahmadiyyah activities is used as basis for the closure and destruction of places of worship that belong to Ahmadiyyah. At the national level, the policy of prohibition is regulated in the Joint Letter (Surat Keputusan Bersama/SKB) of the three ministers—the Minister of Religious Affairs, Ministry of Interior and the Attorney General regarding Jamaah Ahmadiyah Indonesia (No. 3 of 2008, No. Kep-033/A/JA/6/2008, No. 199 of 2008). Furthermore, discriminatory decrees against the Ahmadiyyah community are promulgated at the provincial and local levels. The Joint Letter is used to justify various acts of intolerance, discrimination and violence against the Ahmadiyyah community.

31. In West Java, six Ahmadiyyah mosques in Tasikmalaya, Banjar and Garut were attacked. In June and July 2015 the renovation of the mosque of JAI Branch in Kersamaju, Ciamis, was stopped and the mosque sealed, and religious activities in the Istiqomah JAI mosque in Banjar were prohibited and the mosque sealed. With regard to the Ahmadiyyah, local authorities and security forces did not enforce the right to religious freedom. In fact, they tend to be biased in favor of intolerant groups.

32. In Central Java, the mosque belonging to Ahmadiyyah in Purworejo, Ringin Arum Kendal regency was destroyed on 23 May 2016. The destruction was the aftermath of the rejection of citizens and local government officials. The mosque was built in 2003 on certified land and with a building permit. As a result of the destruction, the Jamaah Ahmadiyyah could not use the mosque to worship during Ramadan 2016.

33. The government and the security forces, have not yet undertaken effective measures to prevent violence that is triggered by hate speech and hostile propaganda. A number of places of worship become targets of attack. It is driven by incitement to hatred and hostility in the public space. On a number of occasions, crowd violence has been triggered by such hate speech, e.g., the burning of churches in Aceh Singkil, preventing Muslims in Tolikara, Papua from using loud speakers to call for prayer and the burning of the Buddhist temple in Tanjungbalai.

34. On 29 July 2016, several monasteries and temples in Tanjungbalai, North Sumatra, were demolished and burned. The security forces were unable to control the crowd. Four monasteries, eight temples and two offices of charitable foundations were attacked, and one private house was damaged and burned by intolerant groups.

35. What the Tanjungbalai government did to “solve” the problems actually violates the rights of minorities. The presence of a temple and a monastery, Vihara Tri Ratna with a particular Buddha statue on its roof, were considered to disturb the Islamic character of Tanjungbalai city. The authorities classified the incidents as an expression of protest by the local community. Whereas in 2010 there were no

demands that the Buddha statue at the top of the Vihara Tri Ratna should be removed, in 2016, the authorities ordered the Buddhist community to take down the Buddha statue due to strong pressure from society. However, recently, the city government invited the FKUB and Council of Islamic Scholars (MUI) to encourage harmony. Based on the recommendation of the two institutions the Tanjungbalai government decided to move the Buddha statue from the top of the Vihara Tri Ratna to the parking lot, envisaging that then the municipality will build a tolerance monument.

Recommendations

- Revise the Joint Regulations of the Minister of Religion and the Minister of Interior No. 9 and No. 8 in 2006, in order to prevent the politicization and abuse of the mandate of political and religious leaders to safeguard religious freedom.
- Empower the FKUB to actively and constructively facilitate inter-religious dialogue, to strengthen the right of every religious community, including local religious traditions, to have a place of worship, as well as resolving disputes related to the establishment of houses of worship.

3. Right to protection from religiously motivated violence by non-state actors

36. Religious minorities often cannot enjoy their rights and perform their religious activities because intolerant religious groups hinder them and the security forces do not effectively intervene against these acts of intolerance. The negligence of the security forces is a pervasive reality in Indonesia that undermines the freedom of religion or belief. On 23 October 2015, for example, on the occasion of the feast of Ashura, Front Jihad Islam opposed the religious activities performed by Syiah communities in Yogyakarta. Intolerant groups exerted pressure so that the celebration of Ashura was disrupted and the planned lectures were discontinued. The intolerant group threatened to resort to violence if their demands were not fulfilled. The group argued that Shi'ism was heretical and should not be carrying out activities in the area of Yogyakarta. At the time of the incident, police arrived at the scene, but did not effectively intervene to ensure the Shiites could enjoy their rights and freedoms.

Recommendation

- Take specific measures to protect religious minorities from religiously motivated violence by non-state actors.

4. Right to equality and non-discrimination

[Regarding the 2012 UPR recommendations: 108.107, 108.110, 108.108, 108.103]

37. Until now the Indonesian government has failed to undertake the necessary measures to prevent discrimination of minorities. Discriminatory policies are upheld,

members of minority groups are restricted not only in the establishment of houses of worship, but also in access to the civil registration services, social services and educational opportunities (In response to the 2012 UPR recommendations: 108.107, 108.110, 108.108, 108.103).

38. In Indonesia, only six religions, namely Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism are recognized. Yet, there are many local religions and beliefs across the Indonesian archipelago. Data from the Ministry of Culture and Tourism in 2003 reported that there were 245 registered Aliran Kepercayaan (indigenous local religious traditions), with the number of adherents reaching more than 400 thousand inhabitants.

39. In Rajua Sabu, NTT a local religious community cannot appropriately use their sanctuaries in Wuirai (Ujung Pantai Bagian Barat), because they are not recognized as “a belief”. The government allowed the construction of a telecommunication tower on that land, and transformed the area into a tourist resort without the permission of Mone Ama (local customary council).

40. The Ahmadiyah community is one of the groups that are often victims of intolerance and discrimination. This does not only refer to their right to have a place of worship, but also to discrimination with regard to access to other rights. In the Kuningan District, for example, about 2,772 Ahmadiyah in the village of Manis Lor could not obtain their electronic National Identity Card because a number of religious community organizations had pressurized the local government not to provide them with ID cards. The reason given was that because the Ahmadiyah are classified as deviant and therefore are not a part of Islam, and cannot include "Islam" in their ID card. The Indonesian Ulema Council (MUI) advised the local Ahmadiyah community to leave the Ahmadiyah community so that they can have their ID cards.

41. Those Ahmadiyah members in Manis Lor who did not have ID cards could not marry, since the respective government authority, the office of religious affairs, did not serve and provide the marriage certificate. Citizens who want their marriage officially to be recognized and recorded have to move and get married in another region.

42. State protection for the LGBTI community is too weak and does not actively prevent intolerance and discrimination often experienced by these groups, including rights related to the freedom of religion and belief. In Minahasa, North Sulawesi, the district government actively encourages a climate of intolerance and discrimination against the LGBTI community. On 11 April, 2016, for example, the mayor of Minahasa, who also serves in a responsible leadership position in GMIM (The Evangelical Church in Minahasa), Jantje Wowiling Sajouw, invited people to "fight" the LGBTI community while leading the Easter worship at the church in Tounelet, district Kakas.

43. In Yogyakarta, the activities of Pondok Pesantren Al-Fatah (a traditional Islamic boarding school), Kotagede, were stopped. The pesantren was founded in 2008. With 40 students it offered transsexual Muslims a spiritual place to deepen their religious life. Guided by the chaplain and clerics, they learned to read the Qur'an and engaged in religious studies. On 19 February 2016, an intolerant group threatened to dissolve this pesantren based on an Islamic legal opinion to be issued against the LGBTI community. After Friday prayers, the village and district governments put pressure on the pesantren to stop its activities.

44. In Aceh, the application of Sharia law in the region particularly affects the LGBTI community, as they face direct difficulty in employment. On 7 March 2016, the Bireuen district government, through the Department of Islamic Law, issued a ban, shared with the wider society. The letter calls on owners of hairdressing and beauty salons not to employ any transgender/transsexuals people. People who do not adhere to this ban will be sanctioned by the authorities. This ban has the support of other government agencies as it refers to the general ban on LGBTI in the Qanun Jinayah.

Recommendations

- Review and/or revoke regulations and policies at the national, provincial and local levels, which restrict access for religious minorities and people adhering to local religious traditions to the same service in civil registration, social services and education.
- Provide awareness-raising and capacity-building for civil servants in charge of civil registration, social services and education to ensure equal service to all citizens, regardless of their religious affiliation.
- Defend and protect minorities, including the LGBTI community on the basis of the constitution. Not to curtail their citizenship rights and prevent any influence on state regulations by discriminatory religious opinions against the LGBTI community.

5. Impact on Women and Children

45. Women and children are the most vulnerable in any acts of intolerance, discrimination and violence related to religion. When minorities are forced to flee, their children have difficulty accessing education. As a result of losing a sense of security, trauma and fear of recurrent attacks, women are afraid to perform their daily activities and live in anxiety as a result of worrying about the safety and education of their children. They are afraid to build social relationships with groups of different religions. This was experienced by women and children who are victims in the event of banning worship in Tolikara (Papua) on 17 July 2015 and the destruction of houses of worship in Aceh Singkil on 13 October 2015.

46. Similarly, in the case of the closure of the Ahmadiyah community in West Java, women's access to economic resources drastically declined, especially when

communities are forcibly displaced. They lose their income as a result of being made redundant or transferred to other places, as experienced by a honorary teacher and three civil servants who were members of the Ahmadiyyah community in Tasikmalaya (West Java).

47. In a number of cases of intolerance and discrimination based on religion, children often become victims and have problems in social relations. For example, 24 Ahmadi children in a state elementary school in Jawa Barat experienced bullying and were forced to move to schools further away because of being pressurized by the intolerant group. Child victims of the attacks of the intolerant groups against the HKBP Church, Filadelfia in Bekasi (West Java), during the Christmas celebrations on 24 December 2012, are still traumatized and shunned by their Muslim classmates.

Recommendations

- Take concrete measures to protect women and children as the most vulnerable groups affected by intolerance, violence and discrimination, by guaranteeing and protecting their rights in line with national and international obligations.
- Develop policies for the enforcement of the rights of women and children and other vulnerable groups.
- Streamline and optimize the coordination between institutions and government agencies, at national, provincial and local levels, to ensure the guarantee and protection of the rights of all, especially the most vulnerable.