

UNIVERSAL PERIODIC REVIEW (UPR)
ON THE CONDITION OF FREEDOM OF RELIGION AND BELIEF

27th UPR Working Group Session: Indonesia

I. Introduction

1. This report was prepared by a number of CSOs concentrating on issues of freedom of religion and belief in Indonesia: Human Rights Working Group (HRWG), Setara Institute for Democracy and Peace, Banda Aceh Legal Aid Institute (LBH Banda Aceh), the Institute for Islamic and Social Studies (LKIS) Yogyakarta, the Indonesian Legal Aid Foundation (YLBHI), and Solidaritas Perempuan (Women's Solidarity for Human Rights), Association of Journalists for Diversity (SEJUK), Association of Asian Muslim Network (AMAN) Indonesia, CMARs (Center for Marginalized Communities Studies). The report drafted based on the 3 days focus group discussion in Bogor on 28-30 October 2016 and regular communications. (*See, Annex I for the profiles*)

II. GUARANTEES OF FREEDOM OF RELIGION OR BELIEF

(Para. 108.98, 108.99, 108.100, 108.102, 108. 103, 108.104, 108.106, 108.111)ⁱ

2. The right to freedom of religion or belief has a strong legal basis in Indonesia. Religious freedom is guaranteed by the Constitution – positioned at the top of the Indonesian legal hierarchy – as well as by statutes and regulations that guarantee recognition, protection, respect and promotion of human rights. Nevertheless, there are many national legislative products that threaten freedom of religion and belief, as was recognized in the last periodic review process.

A. Regulations that Guarantee Freedom of Religion and Belief

3. Article 29(2) of the Indonesian Constitution guarantees all persons the freedom of worship, each according to his/her own religion or belief. Article 28I of the Indonesian Constitution provides that the right to freedom of religion is non-derogable. The Constitutional Court, which has the power to review statutes, in 2010 and 2012, found that freedom of thought, conscience and religion could be restricted by law.ⁱⁱ It relied on Article 28J of the Constitution, which provides that religious values, morality, security and public order are relevant considerations in defining the boundaries of religious freedom for the purpose of protecting the rights of the religious majority in the Indonesian context.ⁱⁱⁱ It also guarantee on the Article 22 of Law No. 39 of 1999.^{iv} Article 4 of the Human Rights Law states that that freedom of religion is a human right that cannot be derogated under any circumstances by any person.

4. In 2005, the Indonesian government passed Law No. 12 of 2005 on the Ratification of the ICCPR. In fact, Article 7(2) of the Human Rights Law states that international law that has been accepted by Indonesia relating to human rights will be applied as national law.

5. A number of articles in the Indonesian Criminal Code (KUHP) imply the existence of protections for freedom of religion or belief. Article 156 and 157 on spreading of hatred against a group in society (based on race, country or place of birth, religion, descent, nationality or position according to state administration) would appear to provide some protection for the right to freedom of religion. In practice, however, they are more commonly used to protect the rights of the

religious majority.

B. Regulations that curb or threaten freedom of religion/belief

6. Law No.1/PNPS/1965 on Prevention of Abuse and/or Blasphemy of Religion (commonly called the Blasphemy Law) is frequently used by the government to restrict freedom of religion and belief. Article 1 of the Law prohibits all people from intentionally and publicly conveying, attempting to gain support for, or conducting activities in relation to an interpretation of a religion that deviates from the core teachings of the six official religions. Law No. 1/PNPS 1965 serves as the basis for Article 156a of the Criminal Code (KUHP), which prohibits intentional and public expressions or behavior construed as hostility towards, abuse or blasphemy of one of the official religions in Indonesia.

7. A number of other national regulations restrict freedom of religion, although the government has made no attempt to review them in the period since the last UPR. For example, the 2008 joint ministerial decree signed by the Minister of Religious Affairs, Minister of Home Affairs and the Attorney General that warned against conducting activities that ‘deviated’ from the six official religions and prohibited Ahmadiyah followers from spreading their faith.^v The joint decree clearly conflicts with the right to freedom of religion because it limits the rights of citizens to follow the religion of their choice. Further, the decree has been used as justification for violent acts by intolerant groups, and has inspired leaders in several local districts to publish discriminatory regulations that restrict the religious freedom of the Ahmadiyah community, such as West Java Gubernatorial Regulation No. 12/2011 (March 2011), West Sumatera Gubernatorial Regulation No. 1/2011 (25 March 2011), and South Sulawesi Gubernatorial Regulation No. 12/2011 (4 March 2011).

8. Another joint ministerial decree, signed by the Minister of Religion and Minister of Home Affairs (No. 8 and 9 of 2006), on the establishment of houses of worship, also significantly restricts the religious freedom of minority religions. The decree, “Guidelines for Regional Heads and Deputies in Maintaining Religious Harmony, Empowering Religious Harmony Forums, and Constructing Houses of Worship,” amended a 1969 decree on building houses of worship. The decree authorizes local governments to approve or reject house of worship building permits. Although the decree authorized the establishment of Religious Harmony Forums (FKUB), in practice they have reinforced the views of the majority and prevented the construction of minority houses of worship (see below).

9. A number of institutions have contributed to or legitimized intolerant and discriminatory actions against religious minorities. Of particular concern is the Coordinating Board for the Monitoring of Mystical Beliefs in Society (Bakorpakem). This agency is under the Attorney General’s Office, has a presence in all of Indonesia’s districts, and is provided with the authority to monitor religious beliefs that may ‘harm’ society or the state. It works closely with the Ministry of Religious Affairs, police, the military and local governments. It has been highly influential in recommending formal bans against minority religious communities in Indonesia, including the 2008 joint ministerial decree restricting the activities of the Ahmadiyah community.

10. Another highly problematic institution is the Indonesian Council of Ulama (MUI). MUI is often described as a quasi-state body. Although it receives funds from the state budget, it is not an official government agency. The MUI has grown in influence over the past decade or so, as former President Susilo Bambang Yudhoyono endorsed its role in determine the boundaries of religious orthodoxy for

the country's Muslim population.^{vi} The MUI issues fatwa or legal opinions in response to questions of Islamic law or broader social and political concerns. Although its fatwa are not legally binding, they often influence policy decisions and the behavior of hard-line groups. MUI fatwa have often preceded decisions by local governments to ban particular minority groups, they are often used as evidence by prosecutors in blasphemy trials and are sometimes used as justification for violence by violent Islamist vigilantes.

C. Freedom of Religion or Belief in Practice

11. Despite protections of religious freedom in the Indonesian Constitution and national laws, the Indonesian government has done nothing to revise statutes and regulations that interfere with this right and has continued to side with the majority. Although Articles 156 and 157 of the Criminal Code (KUHP) should prohibit hate speech, they have never been used against individuals using hate speech or advocating violence against members of minority communities, which on some occasions has included public officials. The government has not developed effective mechanisms to prevent hate speech deteriorating into violence. This was demonstrated in several recent incidents, such as the attack on the Muslim community in Tolikara, Papua, on 17 July 2015, the burning and destruction of churches in Aceh Singkil, Aceh, on 13 October 2015, as well as attacks on Buddhist temples in Tanjung Balai, North Sumatra, on 29 July 2016, which were all prefaced by hate speech against the affected community.

12. As mentioned, the Indonesian government has increasingly used Law No. 1/PNPS/1965 (the Blasphemy Law) to address differences of opinion in religion. The law has been used to privilege members of the six mainstream religions and exert control over, prosecute and even ban religious minorities and sects. While the Blasphemy Law was only used a handful of times under former President Suharto, over the past decade it has been increasingly used to target religious minorities, and has contributed to an environment of intolerance in Indonesia.^{vii} Recent examples have included the following:

- a. In May 2016, the Jakarta Metropolitan Police arrested three of the leaders of the disbanded Fajar Nusantara Movement (known as Gafatar): spiritual leader Ahmad Mushaddeq, ex-leader Mahful Tumanurung and deputy Andry Cahya. The three were named suspects under Article 156a, accused of blasphemy and face five years in prison. This followed an attack on the community in West Kalimantan in January 2016, and the Indonesian Council of Ulama publishing a fatwa declaring the movement to be a deviant sect.^{viii}
- b. In 2012, Tajul Muluk, a Shi'a cleric from Sampang, East Java, was convicted of blasphemy under Article 156a and sentenced to four years in prison.^{ix} Tajul was forced to flee from his village after he and his followers were attacked by hundreds of Sunni militants in December 2011. On 1 January 2012, the Sampang branch of the Indonesian Council of Ulama (MUI) published a legal opinion (*fatwa*) describing Tajul Muluk's teachings as deviant. The Sampang District Court referred to this fatwa when on 12 July 2012 it sentenced him to two years in prison for blasphemy, despite the fact that fatwa are not recognized as a source of law in Indonesia. This sentence was increased to four years on appeal to the Surabaya High Court in September 2012. The Supreme Court rejected a cassation appeal on the case on 3 January 2013.^x

13. The 2008 Joint Ministerial Decree on Ahmadiyah has inspired a broad range of violent and discriminatory activities toward the Ahmadiyah community in Indonesia, especially in West Java. Attacks on Ahmadiyah are discussed in a

separate section, below.

14. The 2006 Joint Ministerial Decree on Houses of Worship (No. 8 and 9 of 2006) has also been used to target minority communities. Over the past five years, members of the civil society coalition have documented examples where the decree has been used to close churches and Ahmadiyah mosques in majority Sunni Muslim areas, and mosques in majority Christian areas.

15. The National Commission on Violence Against Women (Komnas Perempuan) has recorded 422 local-level regulations that discriminate against the rights of women and minority communities. Many of these regulations are directed against minority religious communities. Local administrations should not be formulating regulations related to the rights of minority religious communities. The 2004 Law on Regional Autonomy states that the regulation of foreign affairs, defense, security, national monetary and fiscal matters, and religion is the exclusive domain of the central government.^{xi} Further, according to Articles 249-251 of Law No. 23 of 2014 on Local Government, local regulations should be reviewed by the governor (in the case of district or municipal-level regulations) or the minister (in the case of gubernatorial regulations) to ensure that they do not conflict with higher level laws. In cases where the governor fails to act, the minister can act to cancel lower level regulations. However, the Ministry of Home Affairs has never cancelled a local regulation for violating the rights of minority communities.

16. In 2015, the Setara Institute recorded 197 incidents involving violations of religious freedom, which were comprised of 236 acts. This was a significant increase on the previous year, when 134 incidents (comprised of 177 acts) were recorded. The areas responsible for the highest numbers of violations were West Java (44 incidents), Aceh (34 incidents), East Java (22 incidents), Jakarta (22 incidents) and Yogyakarta Special Province (10 incidents). This pattern is consistent with the spread of violations in previous years.

Recommendations:

- a. We urge the Government of Indonesia to uphold constitutional guarantees of freedom of religion and belief, as well as the other national statutes that provide such a guarantee, for example the 1999 Human Rights Law.
- b. We urge the government to revise legislation and policies that threaten freedom of religion and belief, such as Law No. 1/PNPS/1965 (the Blasphemy Law). In fact, the Constitutional Court, in its 2010 decision (No. 140/PUU-VII/2009) on the Blasphemy Law, also recommended revision of the Law.
- c. Government leaders must review district or provincial level regulations that discriminate against the rights of minority communities and conflict with national level laws that guarantee freedom of religion. The Ministry of Home Affairs should establish a clear mechanism for review of local regulations.

III. SERIOUS ISSUES AND THEMES OF IMPLEMENTATION AND CASES OF THE FREEDOM OF RELIGION AND BELIEF IN INDONESIA (Para.: 108.107, 108.113, 108.101)^{xii}

A. Discrimination and violence against Ahmadiyah

17. The government of Indonesia has made no discernable efforts to arrest discrimination and violence against the Ahmadiyah community since the last UPR process. The Indonesian Ahmadiyah Community (JAI) is an officially registered

organization in Indonesia (based on Law Minister Document No. JA 5/23/13 of 13 March 1953, in addition to State Document No. 26 of 31 March 1953). Violence against the Ahmadiyah has occurred throughout Indonesian history but increased significantly since about 2005, when the Indonesian Council of Ulama republished a 1980 fatwa against the Ahmadiyah community, and, in particular, since 2008, when the joint ministerial decree on Ahmadiyah was passed.

18. Since this period, violence against the Ahmadiyah community has been relentless. West Java recorded the most cases of violence against Ahmadiyah followers (in regions including Tasikmalaya, Kuningan, Bogor, Garut, Bandung, and Cimahi), although violence has also occurred in other regions, including Kalimantan and Sulawesi.

19. For example, 110 Ahmadiyah followers remain in temporary shelters in the Transito complex in Mataram, West Nusa Tenggara, where they have lived since 2006 when they were evicted from their homes. Ahmadiyah families live crowded in small “rooms” of 2x3 meters, divided only by cloth or cardboard. Initially they relied on government support, but since 2007, that support has not been forthcoming. For many years, The Ahmadiyah community has lived under serious hardship in Transito for more than a decade. They have been away from their home villages for so long that they have now established lives in Mataram City.^{xiii} Since 2014, following years of advocacy, many Ahmadiyah have been able to obtain local identity cards.

20. In 2016, there were two prominent cases of local authorities banning the activities of the Ahmadiyah community in their districts. In January in Bangka district, in Bangka-Belitung province, the local district head published a circular requiring the Ahmadiyah followers in the district to convert to Sunni Islam before 5 February or leave the district. There're some effort from Central Government to prevent the expulsion of Ahmadiyah Communities in Bangka. The president through *Kantor Staff Presiden* (Office of President Staff) has command and delegate several staffs to have dialogue with the local authority. Including also Komnas HAM, In a rare positive intervention by the national government, the Presidential Secretary stepped in and commanded the local authorities not to evict the residents. The district head eventually reached an agreement with the National Commission on Human Rights (Komnas HAM) to not evict the Ahmadiyah community.

21. In the same month, the Subang head, Tatang Supriyatna, along with a number of other officials and religious leaders, issued a letter on 29 January that banned all Ahmadiyah activities in Subang. The letter was signed by the Subang Police Chief, the local military head, the head of the local Religious Affairs Office. The following day a banner was fastened to the wall of the Ahmadiyah mosque stating that it had been closed. The central government took no action against the local officials.

22. In May 2016, in the village of Purworejo, Kendal district, Central Java, a semi-completed Ahmadiyah mosque was destroyed by residents who rejected the presence of the mosque, despite it holding a valid building permit since 2004. The attack left them without a place to worship during Ramadan.

23. In all of these incidents, intolerant groups played a significant role in violence or in pressuring local governments to restrict the rights of the community. Local governments either sided with intolerant groups or appeared unwilling to stand up to them, enforce the law and guarantee the religious freedom of the

Ahmadiyah.

Recommendations:

- a. The government must find a permanent solution for the Ahmadiyah – provide them with identity cards, allow them to access schooling, health care and government assistance
- b. The central government must act on local governments that discriminate against and restrict the rights of religious minorities. The 2004 Law on Regional Autonomy states that the regulation of foreign affairs, defence, security, national monetary and fiscal matters, and religion is the exclusive domain of the central government.^{xiv} The Ministry of Home Affairs should cancel local level regulations that restrict the rights of the Ahmadiyah community.
- c. Revoke or revise the 2008 Joint Ministerial Decree on Ahmadiyah, as it has provoked violence against the Ahmadiyah community and inspired similar regulations in the regions that restrict the rights of Ahmadiyah followers, and review the gubernatorial regulations restrict the rights of the Ahmadiyah community, such as West Java Gubernatorial Regulation No. 12/2011 (March 2011), West Sumatera Gubernatorial Regulation No. 1/2011 (25 March 2011), and South Sulawesi Gubernatorial Regulation No. 12/2011 (4 March 2011)
- d. Law enforcement officials must take stronger action against perpetrators of violence against the Ahmadiyah community. Acts of vandalism and destruction of Ahmadiyah property must be investigated and prosecuted.

B. Anti-Shi'a campaigns

24. While attacks on the Shi'a community have occurred sporadically throughout Indonesian history, the past five years has seen an escalation in anti-Shi'a campaigns across the country.

25. The most significant event over the past five years occurred in August 2012, in Sampang, East Java, when a mob of more than 1,000 people attacked the Shi'a community, killing one, burning homes, and displacing more than 500 local residents. Four years after they were attacked, they remain in temporary accommodation in Sidoarjo, near Surabaya. Local government leaders have prevented them from returning home and have stated that they must first convert to Sunni Islam. There have been some positive developments over recent months. Shi'a community members have been able to return home for short periods to visit their homes and crops, with protection from police. Police and military members have protected Shi'a community members when they have needed to return to Sampang to process identity cards and other administrative matters. This initiative from the police should be acknowledged and appreciated.

26. The Indonesian Council of Ulama (MUI) has published a book "Recognising and Remaining Vigilant About the Danger of Shi'a", and has held or supported hundreds of seminars around the country. According to the civil society coalition and the Foundation of General Legal Aid Institution, from 2013 to 2016 there were at least 51 events or activities that contained hateful propaganda against the Shi'a community. A number of the more prominent events and acts of discrimination are listed below:

- a. Intimidation and threats of an attack against the Shi'a community in Yogyakarta in 2013.^{xv}
- b. A declaration made by Islamic leaders gathered under the Alliance of

Madura Ulama (AUMA) at the Nurul Kholil Pesantren (Islamic boarding school), in Bangkalan, East Java on 31 October 2015.

- c. An attack on the Darus Sholihin Pesantren in Jember, which resulted in the death of one person. The pesantren is affiliated with the Shi'a community and was attacked because intolerant groups objected to their celebration of Indonesian Independence Day.^{xvi}
- d. An Ashura celebration planned for 8 November 2013 at the Sucofindo Building in Jakarta was cancelled, following protests from Sucofindo employees.
- e. Police refused to grant a license for the Ashura celebrations in Surabaya on 13 November 2013. They based their decision on an MUI fatwa that declared Shi'a a deviant sect.
- f. On 14 November 2013, the Shi'a community in Makassar, South Sulawesi, was celebrating Ashura, when they were attacked by a hard-line groups. Five people were injured in the attacks.
- g. The National Anti-Shia Alliance (ANNAS) made a public anti-Shi'a declaration in Bandung, West Java. This inspired similar declarations in Bekasi, Jakarta, Serang, and Bandung subdistricts Majalaya and Rancaekek.
- h. Bogor Mayor Circular No. 300/1321 dated 22 October 2015, which restricted the Shi'a community in Bogor from holding Ashura celebrations.

Recommendations:

- a. The government must protect the Shi'a community and allow them to return to their homes in Sampang. It must facilitate a permanent resolution to the problem, ensure the community's safety and security and provide for their economic welfare.
- b. The government and police must play a more active role in acting against hate speech directed at all minority communities. Groups advocating violence against the Shi'a community must be prosecuted.

C. Discrimination directed against followers of traditional belief communities

(Para.: 108.58, 108.139, 108. 144, 108.68, 108.107, 108.108)^{xvii}

27. The Indonesian state classifies faiths as 'religions' and 'beliefs'. The Ministry of Religious Affairs only officially recognises six religions: Islam, Catholicism, Protestantism, Buddhism, Hinduism, and Confucianism.^{xviii} But in addition to these six official groups, the archipelago has thousands of belief groups, which the government terms *aliran kepercayaan*. There are at least 245 different belief groups registered with the Ministry of Culture and Tourism, covering more than 400,000 followers. Despite being acknowledged by the state, the second-class status afforded to 'beliefs' means they are often subject to discrimination.

28. Followers of traditional beliefs still cannot record their faiths on their national identity cards. Law No. 23 of 2006 as revised by Law No. 24 of 2013 on Population Administration allows them to leave the religion column blank, or mark it with a strip (-), although this sometimes sees them stigmatized as atheists. In many cases local officials force them to select one of the six mainstream religions. They often face problems registering their marriages and applying for birth

certificates and family cards, which leads to problems with access to public services like education, health care and social welfare. ^{xix}

29. In 2015, the Sapta Darma house of worship in Dukuh Blandok, Rembang district, Central Java was burnt to the ground by individuals who had for years rejected the presence of the group in the area.^{xx}

The House of Worship which Have Disturbed/Impaired in 2013^{xxi}

No	Worsip Place	Number
1	Church	21
2	Mosque	17
3	Monastery	2
4	Temple	1
5	Religious Sects	2

D. Criminalization and attack on the *Fajar Nusantara* Movement

(Para.: 108.112, 108. 113)^{xxii}

30. In early 2014, the Aceh Ulama Council (MPU) issued a fatwa declaring Gafatar to be a deviant sect. Soon after, Aceh police and local residents broke up an internal meeting and detained several of the senior Gafatar leaders, charging them with blasphemy under Article 156a of the Criminal Code. On 15 June 2015, Gafatar Aceh leader T Abdul Fatah was sentenced by the Banda Aceh District Court to four years in prison, while five others received sentences of three years in prison. In early 2016, the Supreme Court rejected their cassation appeal. In March 2016, the Attorney General's Office, the Ministry of Home Affairs and the Ministry of Religious Affairs issued a joint decree (SKB No. 93/2016) preventing ex-Gafatar members from spreading the movement's teachings.

31. Anti-Gafatar sentiment grew throughout 2015, although it peaked on 19 January 2016, when a mob descended on the Gafatar settlement in Mempawah, West Kalimantan, torching their houses and forcing more than 2,371 ex-Gafatar following families (8,187 people) to flee from Kalimantan. Government made no effort to investigate the violence, protect the victims, or provide compensation to victims who lost their possessions. (*A full report on the situation of the Gafatar community is being prepared and submitted separately*).

E. The Policy of Constructing Worship House in Indonesia (Para.: 108.98, 108.103)^{xxiii}

32. As described above, the process for establishing houses of worship in Indonesia is regulated by a joint decree from the Minister of Religious Affairs and the Minister of Home Affairs (No. 8 and 9 of 2006).^{xxiv}

33. There has been little change in the state response to conflict over construction of houses of worship since Indonesia was reviewed in 2012. Throughout 2013, for example, nine Ahmadiyah mosques were closed based on the decree, as well as at least two churches. In 2015, the National Commission on Human Rights (Komnas HAM) recorded at least 10 violations of religious freedom related to houses of worship, including the closure of the Ahmadiyah Al-Hidayah

mosque in Depok, the An Nur Ahmadiyah prayer room in Bukit Duri, South Jakarta, suspension of the construction of Nur Mushafir Mosque in Kupang, East Nusa Tenggara, and the closure of the As Syafiiyah prayer room in Denpasar, Bali.

34. The two most prominent cases, GKI Yasmin in Bogor and HKBP Filadelfia in Bekasi, remain unresolved. Despite the Supreme Court ruling in favour of both congregations, local officials have continued to prevent them from building their churches. In earlier of 2016, representatives from GKI Yasmin met with the Head of the Presidential Staff, as well as Bogor Mayor Bima Arya Sugiarto. Both promised to resolve the case. The Bogor mayor even pledged to find a solution before Christmas 2016. However, as of August 2016, no meaningful progress has been made towards reopening the church, in line with the decision of the Supreme Court.

35. There is no single issue resulting in these problems relating to the construction of houses of worship, rather there is a multitude of causes. Religious Harmony Forums (FKUB) were designed as a forum for communication and dialogue among religious groups, especially in relation to the construction of houses of worship. But FKUB have not been active in efforts to guarantee the rights of religious communities to a place of worship. In almost all regions, FKUB are dominated by the majority religious group in the area, meaning that the majority voice often trumps the interests of the minority. Only in a few areas, such as Jakarta, has the FKUB played a constructive role to promote interfaith dialogue over the issue of houses of worship. In many cases, when intolerant residents reject plans for a new house of worship, and challenge the signatures collected from other local residents, the FKUB have not acted to facilitate dialogue and settle their concerns. Rather they have allowed tensions to escalate.

36. Over the past nine years, the Setara Institute has recorded 346 houses of worship that have been disrupted or interefered with to varying degrees, ranging from burning and physical destruction to problems over licencing that result in them not being built. Of these 346 houses of worship, 180 were churches, 120 were mosques belonging to minority sects, 22 belonged to traditional belief communities, 14 Buddhist monasteries, five were Hindu temples, and three were shrines. In 2012, the Setara Institute recorded 22 incidents involving prohibitions, closures, and destructions of houses of worship.^{xxv} In 2013, meanwhile, it recorded 37 cases.^{xxvi}

Recommendations:

- a. Religious Harmony Forums (FKUB) should provide equal representation to all religious communities and should not be dominated by the majority religion in the area. As they stand they are often used as a tool by the majority community to veto the construction of houses of worship.
- b. Re-evaluate the Joint Decree on Houses of Worship (No. 8 and 9 of 2006).
- c. Follow up Komnas Perempuan's review on the discriminative local regulations through the review or repeal local government regulations or agreements that contravene the Constitution and international covenants ratified by Indonesia.
- d. Police must step up efforts to prevent attacks on houses of worship. Attackers of houses of worship must be investigated and prosecutors, and communities must be provided with compensation for any damage to their house of worship.

F. Attacks on churches in Aceh Singkil (Para.: 108.107, 108.108, 108.110)^{xxvii}

37. In 2015, discrimination, intolerance and violence against the Christian community occurred once again in Aceh Singkil district. The peak of intolerance occurred after the district government arbitrarily announced that it was closing 20 churches in the region. According to reports, the incident began when protestors met with the district head and demanded that the churches be demolished by 13 October.

38. According to the Association of Journalists for Diversity (SEJUK), the incident began on 9 October 2015, when a text message containing an incitement to attack all churches in Aceh Singkil was circulated among local residents. The text message and was suspected to have originated from a group of residents who a few days earlier had demanded the Aceh Singkil district head and local government demolish all churches in the region because they conflicted with a 1979 local agreement. The protestors demanded that the churches be demolished within a week of the demonstration, which would have fallen on 13 October 2015. Responding to the message, priest Erde Berutu from the Pakpak Dairi Protestant Church (GKPPD) met with the Aceh Singkil district head to ask for protection. He did not get a favourable response. Instead, Aceh Singkil District Head Sapriadi requested the Christian community abide by a 1979 agreement restricting the number of churches in the region. On Monday 12 October, the district head met with member of the Aceh Singkil local legislature (DPRD), the local FKUB, Islamic leaders, and a number of Islamic social organisations, and decided to demolish several churches. The attack occurred the next day.

39. At 11am on 13 October, it was reported that a mob of more than 1,000 had gathered and was preparing to attack the churches. Members of the mob had dubbed themselves the Islam Concerned Youth of Aceh Singkil. They set alight the Indonesian Christian Huria (HKI) in Dangguren village, resulting in the death of one from a bulletwound, and injuries to four others. Security forces, including police and the military, were not able to control the crowd. Members of the GKPPD congregation in Mandumpang, Suro district, fled to Bagindar, in Pakpak Barat district. A total of 5,498 people were displaced, including 4,248 in Banduamas Tapanuli Tengah and 1,250 in Bagindar Pakpak Barat.

Recommendations:

- a. Guarantee the rights of minority communities to establish a house of worship. Provide licencing services that are user-friendly, accessible and cheap.
- b. Prevent attacks or violence against houses of worship, and strengthen the role of FKUB in promoting community dialogue to facilitate the construction of houses of worship.

Endnote:

i 108.98. Review existing laws and policies and repeal or amend where necessary to ensure their compatibility with the right to freedom of religion or belief,

in line with Indonesia's Constitution and its international obligations (New Zealand); 108.99. Ensure that all ministerial decrees regulating religious life, as well as all local religiously founded bylaws, are in conformity with international human rights law (Norway); 108.100. Seek possible ways to speed up the adoption of the religious harmony bill currently discussed by national lawmakers (Ukraine); 108.102. Guarantee freedom of religion or belief and the full respect of the rights of persons belonging to minorities (France); 108.103. Review laws and decrees currently in force restricting the freedoms of religion, opinion, and of expression, in order to prevent any risk of discrimination (Switzerland); 108.104. Revise any national legislation that may be in conflict with international obligations, and strengthen efforts to ensure that any assaults against persons regardless of their religious affiliation are investigated, and that those responsible for such assaults are brought to justice (Sweden); 108.106. Take further measures to ensure the full protection of the freedom of religion or belief for religious minorities (Japan); 108.111. Guarantee the full exercise of freedom of religion (Spain).

ii See Constitutional Court No. 140/PUU-VII/2009, which examined Law No. 1/PNPS/1965 on the Prevention of the Abuse and Defamation of Religion, http://hukum.unsrat.ac.id/mk/mk2009_140.pdf

iii See Melissa Crouch, 'Judicial Review and Religious Freedom: The Case of Indonesian Ahmadis', 34 *Sydney Law Review* (2012), 551.

iv Article 55 of the Law guarantees children's rights to religion: "Every child has the right to practice his or her religion, and to think and express him or herself as befits his or her intellectual capacity and age under the guidance of a parent or guardian."

v Decision No. 3 of 2008; No. Kep-033/A/JA/6/2008; No. 199 of 2008

vi International Crisis Group, 'Indonesia: Implications of the Ahmadiyah Decree', Asia Briefing No. 78, (Jakarta/Brussels: 7 July 2008), http://www.genocidewatch.org/images/Indonesia_08_07_07_Implications_of_the_Ahmadiya_Decree.pdf

vii See Melissa Crouch, 'Constitutionalism, Islam and the Practice of Religious Deference: The Case of the Indonesian Constitutional Court', 16 *Australian Journal of Asian Law* 2 (2016) 1-15.

viii For more, see: Human Rights Watch, 'Indonesia: Persecution of Gafatar Religious Group', (29 March 2016), <https://www.hrw.org/news/2016/03/29/indonesia-persecution-gafatar-religious-group>

ix Decision No. 69/Pid.B/2012/PN.Spg

x Decision No. 1787 K/ Pid/2012, 3 January 2013.

xi Article 10(3) of Law No. 32 of 2004 on Regional Autonomy

xii **Para.** 108.107. Intensify its efforts in taking all necessary measures to stop violence and discrimination against religious groups (Netherlands); Para. 108.113: Intensify its efforts to respect and uphold freedom of expression, including political expression, and the freedom to manifest one's religious belief, for all its citizens, including by ensuring effective state protection for minorities (Australia); Para. 108.101: Institute trainings and awareness campaigns for provincial and municipal officials in respect for the rule of law and with regard to protecting the freedom of religion and other rights of members of religious groups (United States of America).

(A/HRC/21/7)

xiii Most of the Ahmadiya in Transito do not want to go back to their home village but they agree for relocation to Mataram City. Now the Kelurahan (county) is working to find solution for this.

xiv Article 10(3) of Law No. 32 of 2004 on Regional Autonomy

xv See Addi Mawahibun Idhom and Muh Syaifullah, 'Shi'a Community in Yogya Threatened With an Attack' [*Kelompok Syiah di Yogya Diancam Diserang*], Tempo, (22 November 2013) <https://nasional.tempo.co/read/news/2013/11/22/058531705/kelompok-syiah-di-yogya-diancam-diserang>

xvi Wahyoe Boediwardhana and Bagus BT Saragih, 'One killed in Jember communal clash', The Jakarta Post, (13 September 2013) <http://www.thejakartapost.com/news/2013/09/13/one-killed-jember-communal-clash.html>

xvii Paragraph 108.139: Continue to support ethnic and religious tolerance within a diversified society (Lebanon); Para. 108.58: Provide more resources for implementing the national policies and programmes in favour of social vulnerable groups like women, children, poor people, ethnic minorities and migrants (Viet Nam); Para. 108.144: Continue to comprehensively promote economic and social development as well as the harmonious co-existence among all ethnic groups and religious groups (China); 108.107. Intensify its efforts in taking all necessary measures to stop violence and discrimination against religious groups (Netherlands) ; 108.108. Investigate and prosecute all cases of harassment and discrimination of religious minorities and non-believers (Norway);

xviii This was affirmed by the Constitutional Court in its review of the Blasphemy Law in 2009 and is reinforced by other statutes, such as the 2013 Law on Population Administration, which refers to 'recognised religions'.

xix "Laporan Hasil Pemantauan: Tentang Diskriminasi dan Kekerasan Terhadap Perempuan dalam Konteks Kebebasan Beragama dan Berkeyakinan Bagi Kelompok Penghayat Kepercayaan /Penganut Agama Leluhur dan Pelaksanaan Ritual Adat. 3 Agustus, 2016.

xx The peak of the attack occurred on 10 November 2015, when an angry mob descended on the house of worship, claiming that it did not have the correct building licence.

xxi Source taken from "Stagnation on Freedom of Religion: The Report of Condition on Freedom of Religion/Belief of Indonesia in 2013." Jakarta, February 2014. Published by Pustaka Masyarakat Setara.

xxii Para. **108.112**: Undertake measures to protect members of religious groups, including Ahmadis, Bahais, Christians and Shias from harassment and acts of violence. This should commence with holding senior law enforcement accountable for their duties that include training for law enforcement officials at the local level to ensure an effective and adequate response to these incidents. This would also include reviewing laws and regulations which discriminate, directly or indirectly against one's religion or belief, including in particular the Blasphemy Act (Canada); Para. **108.113**: Intensify its efforts to respect and uphold freedom of expression, including political expression, and the freedom to manifest one's religious belief, for all its citizens, including by ensuring effective state protection for minorities

(Australia);

The Fajar Nusantara Movement (Gafatar) is a community organization that was established on 14 August 2011. Its spiritual leader, Ahmad Mushaddeq, previously led the Al-Qiyadah Al-Islamiyah and the Milah Abraham movements, both of which were said to incorporate elements of Islam, Christianity and Judaism, and were eventually banned by the Indonesian state.

xxiii 108.98. Review existing laws and policies and repeal or amend where necessary to ensure their compatibility with the right to freedom of religion or belief, in line with Indonesia 's Constitution and its international obligations (New Zealand); 108.103. Review laws and decrees currently in force restricting the freedoms of religion, opinion, and of expression, in order to prevent any risk of discrimination (Switzerland);

xxiv The decree dictates that constructing a house of worship requires:

- a. A list of names and ID cards of at least 90 people who will use the house of worship. This list should be endorsed by the village head
- b. A support letter from at least 60 people living in the area. This support letter should be endorsed by the village head;
- c. Written recommendation from the local Ministry of Religious Affairs;
- d. Written recommendation from the local Religious Harmony Forum (*Forum Kerukunan Umat Beragama*, or FKUB)

xxv "Leadership Without Initiative; the Condition of Freedom Religion/Belief in Indonesia 2012. Jakarta, 2013. Published by Pustaka Masyarakat Setara.

xxvi It divided the cases into those actions caused by the state: one case involving prevention of a house of worship being built, 2 involving restriction of access, 3 cases of destruction or demolition, one bombing, 11 cases of temporary sealing of restriction of access. The next category of cases were caused by non-state actors and included: 2 cases of burning, 1 case of demolition or destruction, 4 cases of rejection or prevention of a house of worship being built, 5 cases involving sealing of a house of worship, and 7 cases of vandalism. "Leadership Without Initiative; the Condition of Freedom Religion/Belief in Indonesia 2013. Published by Pustaka Masyarakat Setara.

xxvii 108.107. Intensify its efforts in taking all necessary measures to stop violence and discrimination against religious groups (Netherlands);