



ALTERNATIVE REPORT

OF INDONESIA'S ICCPR STATE REPORT

ARTICLE 18: FREEDOM OF RELIGION AND BELIEF

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ALTERNATIVE REPORT TO THE HUMAN RIGHTS COMMITTEE REGARDING TO IMPLEMENTATION OF ARTICLE 18 OF ICCPR

Submitted by:

Indonesia's NGOs for Religious Freedom and Belief

Introduction

1. It should be noted firstly that in fact Indonesia's Constitution guarantees the respect, protection, and fulfillment of human rights and we have a number of human rights instruments at the domestic level. However, despite these legal instruments the Indonesian Government still fails to fulfill its obligations with regards to freedom of religion or belief, particularly for the religious minorities, like the Ahmadiyya, Christian, Syiah, Bahais, believers of traditional religions, and many others.
2. One of the fundamental failure of the Government's, which in turn enables continuous persecution of the religious minorities, is its avoidance from taking the appropriate legislative, administrative or judicial. With regards to violence to Religious Minorities, we have seen an increasing trend on acts of intolerance. The Ahmadiyya is the religious minority that is subjected to most assaults, forced displacement, and even killing. The Restriction in the Establishment and Use of House of Worship remains prevalent in Indonesia. Some Christian churches have been facing resistance in establishing their house of worships, such as in GKI Yasmin and HKBP Filadelfia.
3. This report is prepared by number of Indonesian NGO which put their concern on the issue of freedom of religion/belief, they are; The Wahid Institute, Indonesia Legal Resource Center (ILRC), Jakarta Legal Aid Insitute, Setara Institute, Elsam dan CMARs, which coordinated by Human Rights Working Group (HRWG). This report in prepared through meetings, discussions and collecting data.

A. LEGAL FRAMEWORK

Articles of Threatening

4. While ensuring the rights of freedom of religion and belief, the Constitution of Indonesia still recognizes the restrictions and this article could potentially threaten freedom of religion. Article 28J of the Constitution of the Republic of Indonesia stated: *"In exercising his/her rights and freedoms, every person shall have the duty to accept the restrictions established by law for the sole purposes of guaranteeing the recognition and respect of the rights and freedoms of others and of satisfying just demands based upon considerations of morality, religious values, security and public order in a democratic society."*

5. Article 28J of the Constitution is often used by the State to restrict the right to freedom of religion and belief in a way that is far from respecting human rights and procedures indicated in Article 28J. For example, restrictions without legislation, with only local regulations (PERDA) and joint decree (SKB). This had happened, for instance the banning of Ahmadiyah through SKB and PERDA in a few provinces/regency (West Java, East Java, etc.).
6. Law No. 1/PNPS/1965 which adds Article 156a of the Criminal Code as a basis interpretation of the prohibition of “deviant” of a recognized religion in Indonesia, it is often used as an excuse to criminalize and religious groups/minority beliefs on the pretext of blasphemy. This article is used to criminalize the victims of the latest incident of Shia in Sampang, Madura, East Java.
7. Law No.23/2006 concerning the Administration of Population Affairs (Article 8(2), 61(4), and 64(2)) confirms the recognition of six religions in Indonesia as the identity of citizens, thus discriminates against religious groups, personal identity/faith/belief other than the six religions recognized.
8. Article 3, paragraph (3) d and e Law No. 16/2004 concerning on the Attorney General gives an authority to the General Attorney to conduct supervision to beliefs that might endanger the society and the State as well as preventing the abuse and/or desecration of religion. In addition to being the basis of the establishment of the Coordinating Board for Monitoring Mystical Beliefs in Society (Bakor Pakem), this law is also used by the Attorney General (and Minister of Religious Affairs and Ministry of Internal Affairs) to issue 3 Ministers Joint Decree issued banning Ahmadiyah and by the Attorney General to prohibit the teachings of Al-Qiyadah Islamiyah.
9. 3 Ministers Joint Decree in 2008 essentially banned the spreading of Ahmadiyah’s teachings in Indonesia. 3 Ministers Joint Decree is one of the justifications for the intolerant and violent assault to the followers, houses, and places of worship of Ahmadiyah.
10. Decision of the Attorney General concerning the establishment of the Coordination Team for Monitoring Mystical Beliefs in Society.¹ This decision is to coordinate other agencies and Prosecutor’s Office under the supervision of Coordination Team for Monitoring Mystical Beliefs in Society to analyze reports or information, analyze and assess the development of a belief, and take **preventive** and **repressive** measures towards beliefs.
11. Local regulations and Decree (at the provincial and district/city) banned the spreading of Ahmadiyah and until 2012, 30 rules have existed throughout the regions in Indonesia.
12. Policies and regulations violate the national and international human rights standards, such as license revocation and a decree banning the establishment of

¹ Decision of the Attorney General No. No. Kep-004/J.A/01/1994.

places of worship as occurred to the followers of Taman Yasmin Indonesian Christian Church, Bogor and Batak Christian Protestant Filadelfia Church (HKBP Filadelfia) in Bekasi.

Recommendation:

13. Revoking Law No 1/PNPS/1965. This law is the source of discrimination, persecution, violence and punishment on the basis of belief.
14. Revoking 3 Ministers Joint Decree in 2008 concerning Ahmadiyah, and other local regulations prohibiting discrimination and religious groups and beliefs.
15. Urging the Indonesian Government to regulate and organize religious life and belief in accordance with the principles of universal human rights, in particular the implementation of Article 18, paragraph 3 of the ICCPR, restrictions.

B. INSTITUTIONAL FRAMEWORK

Attorney General and Bakor/Pakem Team

16. *Bakor/Paker* Team was established based on Decision of the Attorney General No. Kep-004/J.A/01/1994. Historically, this institution is a colonial legacy aiming to control religious beliefs considered destabilizing the state and society. Bakor/Pakem Team contradicts Pancasila and the Constitution as the basis of the State, and the principles of human rights and democracy.
17. This institution has a serious impact on the survival of followers of certain religions/beliefs because the prohibition against certain religious teachings has implications the fulfillment of other rights, such as economic, social and cultural rights. Violence experienced by minority religions/beliefs often occurs after the release of a decision made by *Bakor/Tim Paker*.
18. Not only exists in the central level, Tim Pakem also exists in the local or regional (Provincial Attorney Office/Kajati and District Attorney Office/Kajari) established by the Decree of the respective Kajati and Kajari Heads, with the involvement of related ministries.
19. General Attorney is the head of the team assisted by his subordinates. The member consists of the Ministry of Religious Affairs, represented by the Directorate of Research and Development, Ministry of Interior, represented by the Directorate of Social Politics, Culture and Tourism Ministry, represented by the Director General of the Value of Art, Culture and Film, the military represented by Aster Military Police Korstabasm represented by State Intelligence Agency (BIN), represented by the Deputy II BIN.
20. Since its inception until 2007, Bakorpakem has banned a number of religious groups/beliefs in Indonesia, some of which are conducted by the Attorney General,

the Police, and the Regional Pakem Teams. General Attorney has banned eight beliefs, which are Qiyadah Islamiyah, by Abdurrahman and his followers (*Inkarussunah* group) and a ban of the book, Moch. Ircham Sutarto, Sanyoto Jawa, Jawi Vishnu Buddhism, Religious Faith Manunggal, Darul Hadith, Djamaah Qur'an Hadith, Islam Djamaah, JPID Jappenas DII and similar organizations.

21. Until 2007, police has banned 39 religious groups/beliefs considered as cults. There are Dayak Takmad Hindu, Syiah Imamiyah, Salamullah, Al-Haq, the Holy Quran, Zubir Amir (North Sumatra), Muslim Jamaat Hizbullah (West Kalimantan), Husnul Khuluk (Bandung), Siababa, Tariqot Nagsabandiah, Sabar Sakoto (Batam), Karisma Usada Mustika, Syaiah Islam, Al Musyarafah Doctrine, the Doctrine Uli Amri, Lia Eden, Iskarima Foundation, Hisbul Wathan, AMDI, Amalillah (Jakarta), Al-Zaitun, LDII (West Java), Zumris (East Kalimantan), Qiblatul Amin Foundation, Jehovah's Witnesses (North Sumatra), Propagation Institute Indonesia (North Sumatra), Sheikh Siti Jenar (Lampung), Suol Training (North Sumatra), Doctrine Wahidiyah (West Java), Jemaah Muslim Mosque (South Sulawesi), Doctrine Naqsabandiyah (South Sumatra) and Ahmadiyah Indonesia.²
22. Tim Pakem West Sumatra banned Al-Qiyadah Islamiyah West Sumatra, while High Court of North Sumatra banned the Ahmadiyya Qadian.
23. State Attorney in Kuningan, West Java, banned and supervised 27 beliefs in the region. Eleven of them had long gone and disappeared, the other 14 in supervised status (passive) and only one belief still active up to now.³

Recommendation:

24. Dissolving *Bakor Pakem* since this institution is the tools of State to criminalize religious groups and beliefs, without any fair and independent court proceedings.
25. In practice, due to *Bakor Pakem*, courts processing cases concerning religious groups and belief are not independent, and unfair. One of the reasons is because the decision made by Chairman of the court before the trial court, and it has been persecuted.

Police Department

26. Among the many violations of religious and beliefs freedom, police officers as a State agency are apparently the most offenders of the violations. Since 2008 to 2012, police are in the highest position of religious freedom violations.
27. In 2008, out of 367 cases of violations, 121 cases of them are conducted by the police, while in 2009, out of 139 violations, 84 of them are conducted by the police.

² The data is based on observation and research conducted by Indonesian Legal Resource Center (ILRC) in 2008.

³ The data is based on observation and research conducted by Indonesian Legal Resource Center (ILRC) in 2008.

Moreover, in 2010, 56 cases are performed by the police and in 2011, 28% of violations are also conducted by the police. As of July 2012, there are 40 violations. From 2008 to 2012, the police rank in the highest position as the offender of violation by the State actively.⁴

28. In carrying out its duties, the police do not have a comprehensive strategy to prevent cases of hate speech or hate crime, and early detection mechanism is not yet a priority of the institution. Besides, the police also do not have the sensitivity to the rights of freedom of religion and belief, so that in practice police often involve in the offence, either directly or not. In this case, the police often fail to bring the perpetrators of violence, discrimination and intolerance to court.⁵
29. Insensitivity of police occurs in cases in cases of criminal acts against religious minority group/belief. Take for example of the case of the Baha'i religion, Mr. Syahroni. Police use the Child Protection Act which prohibits for someone to deceive or induce a child to choose another religion. Due to the urge from radical Islamic group, this article is used by the Lampung Police to capture and process a follower of Baha'i in Lampung on charges of spreading new religions besides of Islam to children in his village.⁶

Recommendation:

30. There should be a legal decision made by the head of the police force and a technical guide on how the police work in a professional, transparent and impartial way in dealing with cases of freedom of religion and belief; including reward and punishment for the police.
31. Urging the police to provide information openly and a process and follow-up report of violations of the freedom of religion and belief to the public and especially to the victim.
32. Urging the police to stop the legal process when there is a strong indication towards cases related to religious belief, such as the incident of Syiah Sampang.

Local Government: Local Regulations

33. Local government is one of the institutions indicating violations of religious freedom in Indonesia, some of which are conducted through legislation, policies and local decisions, both issued by the executive or the legislature. As of 2012, there have been 30 local government policies that prohibit the teaching of Ahmadiyah in Indonesia.

⁴. Data is based on the annual monitoring conducted by the Setara Institute from 2007 to 2012.

⁵. Kontras, The Report of *Pemantauan Pemolisian dan Hak Atas Kebebasan Beragama, Berkeyakinan dan Beribadah*. (Jakarta, April 2012)

⁶ For this action, the Law of PA charges criminal penalties maximum of 5 (five) years and/or a maximum fine of Rp 100,000,000.00 (one hundred million) for the offender. Article 86 of Law of PA

34. Authority for conducting public order and peace in the community is used as a pretext by the local government to issue regional regulations, decrees, etc. which restrict and prohibit Ahmadiyah practices. In addition to 3 Ministers Joint Decree on Ahmadiyah, MUI Fatwa concerning Ahmadiyah is also used as a reference by the Local Government in drafting regulations.
35. This regulation issued at Tasikmalaya Regency, Sukabumi Regency, Cianjur Regency, Bogor City and the Regency of Bogor, Kuningan Regency, Depok Regency, and Bekasi Regency (also at the Province of West Java level); East Lombok, West Lombok and Mataram (also at the Province of East Nusa Tenggara level); West Sumatera Province; Makassar (also at the Province of South Sulawesi level); Pandeglang Regency, Serang Regency and Lebak Regency (also at the Province of Banten level); Kampar Regency and Pekanbaru Regency (of Riau Province); Pontianak Regency (of West Kalimantan Province); Banjarmasin City (of South Kalimantan Province); Konawe Selatan Regency (of Southeast Sulawesi Province).
36. In the matter of interpretation of 'cult' and the restriction of it by the government, up to date there are three by laws which forbid the existence of other interpretations or beliefs. There are; East Java Governor Regulation Nr. 55 of 2012 on The Assistance of Religious Activity and the Supervision of the Cult in East Java (this regulation was issued after the attack against Syi'ah in Sampang), Regulation of Banda Aceh Mayor Nr. 11 of 2011 on The Supervision of Cult and the Activity of Superficiality of Godliness in the Area of Banda Aceh City and Governor Regulation of Aceh Nr. 9 of 2011 on The Restriction of Millata Abraham Belief's Activity.

Recommendation:

37. Revoking all regional regulations contrary to two principles of human rights, particularly the ICCPR Article 18 and the principles of human rights provisions in the Constitution, including a procedure under Article 28 A of the Constitution.

Ministry of Interior

38. Minister of the Interior is one of the violators of religious freedom, especially the unwillingness to adapt local rules conflicting with the Constitution or legislation that guarantees freedom of religion. In reviewing the functions of local regulations, the Minister of the Interior has the authority to review and invalidate local regulations which are considered contradictory to a higher rule. However, the Minister of the Interior only eliminates regulations relating to tax and administration, and does not review or revoke local regulations that might threaten the freedom of religion and belief.
39. Minister of the Interior does not provide any firm action to the officer who violates the religious freedom, such as the Bogor Mayor who violated religious freedom by sealing the church of Christian Yasmin group to establish a place of worship.

Moreover, there are not any reprimands or actions taken by the Minister of Interior concerning the sealing of 20 churches by Governor of Aceh Singkil, Nanggroe Aceh Darussalam in 2012.⁷

Recommendation:

40. Urging the Minister of Interior to revoke all local regulations that are contrary to Article 18 of the ICCPR and human rights provisions in the Constitution as the Minister of Interior has the authority to do so.
41. Creating specific guidelines of local rulemaking related to religious and beliefs rules which are based on human rights and ensuring no violations of it.

FKUB

42. Forum for Religious Harmony (FKUB) is established based on Joint Regulations of the Minister for Religious Affairs and Minister of Interior (PBM) No. 9 and 8 of 2006. PBM contains of three things: (a) Guidelines Task of Regional Head/Deputy Head in the Maintenance of Religious Harmony, (b) Empowerment Forum for Religious Harmony, and (c) Construction of Places of Worship.
43. FKUB is established in all provinces and districts in Indonesia. Until 2010, there have been 33 FKUB at the provincial, 319 at the district level and 83 at the city level. FKUB is responsible for: 1) engaging in a dialogue with religious and community leaders, 2) accommodating the aspirations of religious organizations and the community, and 3) transmitting the aspirations of religious organizations and the community in the form of policy advice for the governor, and 4) disseminating legislation and policies in the terms of religion affairs related to religious harmony and community empowerment.
44. Due to diversity factor, the implementation of FKUB varies from one region to another. Unfortunately, only a few FKUB can work well and achieve its goal to reconcile the life of religions in Indonesia, as has been achieved by FKUB Jakarta, Central Kalimantan, Manado and Bali.
45. In many cases, FKUB has not been able to work effectively based on the principles of human rights and tolerance.
46. Forum for Religious Harmony (FKUB) is designed as a forum for dialogue, and it acts as a filter and an assessor to guarantee freedom of religions and beliefs by followers of 'mainstream' or 'recognized' religions. They are the police, prosecutors, as well as judges who decide the issues without any room for dispute settlement. The harmony

⁷ Aliansi Sumut Bersatu, "Dokumen Penyelamatan 20 Rumah Ibadah di Kabupaten Aceh Singkil", (2012)

that appears is the hegemony of the majority over the minority in the practices of religious life.⁸

47. In West Sulawesi, FKUB involves in action against religious groups that are considered deviant, together with the local government and the Indonesian Ulema Council in the area. On 20 September 2010, FKUB Mojokerto, East Java, urged the government make visits to five temples used for daily church activities. This is based on the monitoring conducted by FKUB. Moreover, on 30 September 2010, FKUB in North Sumatra together with local government, judiciary, parliament and the MUI urged Vihara Tri Ratna Foundation to bring down the statue of Amithaba Buddha. FKUB also involved in the protests and sealing of GPIB Galilea Church, Bekasi, on February 15, 2010.⁹
48. In addition, bureaucracy and lack of internal communication are two of the factors FKUB fails to achieve its goal as a medium of communication and tolerance among religions in Indonesia. Bureaucracy permit to establish a place of worship is one reason for the difficulty of establishing a place of worship.

Recommendation:

49. There should be a performance evaluation for FKUB on the basis of human rights and a strengthening of human rights in its internal.
50. Create a standard of work based on human rights and human rights work guide.
51. Revoking all decisions and recommendations made by FKUB which are opposed to human rights.

C. RELIGIOUS FREEDOM AND CELEBRATION

■ Penalty against Religious Beliefs

52. **Article 1** Law No. 1/PNPS/1965 forbids anyone to tell any interpretation or do activities that deviate from the 6 (six) main religion preferred by this the Law. While **Article 2** gave authority to the Minister of Religious Affairs, Minister of Internal Affairs, and the General Attorney to give warning to someone in order to stop an activity prohibited under Article 1 and to the President to dissolve any organizations or beliefs in violation of Article 1. For the perpetrators who violate Article 1 is liable to criminal sanction of not longer than 5 years imprisonment.
53. There have been 37 cases of penalty against religious beliefs until 2012 by the District Court (PN) in Indonesia which are charged with Article 156a of the Criminal Code (Addition Article to Law No. 1/PNPS/1965).
54. In 2012, there are 6 cases, namely to Mr. Sumaran by PN Sukabumi, Ustaz Tajul Muluk by PN Sampang, Alexander Aan by Padang District Court (DC), Sensen Komara by Garut DC, Pastor Hadassah Werner J by PN Bandung, and Andreas Guntur

⁸ Setara Institute, "Laporan Kebebasan Beragama di Indonesia" (2007 – 2009).

⁹ The Wahid Institute, "Laporan Kebebasan Beragama dan Berkeyakinan di Indonesia" (Tahun 2010).

Vishnu Sarsono by Klaten DC. Whereas in 2011 there are four cases, namely Ahmad Naf'an by Surabaya DC, Ondon Juyana by Ciamis DC, Tasikmalaya Oben Sarbeni by Tasikmalaya DC, Antonius Richmon Bawengan by Temanggung DC, and Ahmad Tantowi by Sumber-Cirebon DC. Moreover, there are 8 cases in 2009, 1 case in 2008, 3 cases in 2007, 5 cases in 2006 and the rest until 2005, there are 10 cases.¹⁰

Recommendation:

55. Urging to halt cases towards religious beliefs.
56. Urging to overturn any conviction or legal action to release victims, for instance the cases of Tajul Muluk, Syiah Sampang, and Alexander Aan, the case of atheists in Padang.
57. Urging judicial authorities (police, prosecutors, and the courts) to discontinue the process and penalty against religious beliefs.

■ Discrimination towards Religious Belief

58. The Government of Indonesia is still limiting the legality of official religions so that groups of minority religions/beliefs have always been victims of discrimination. As a matter of fact, Law No. 23/2006 on Population Administration (Adminduk) and Government Regulation No. 37/2007 has brought progress in the fulfillment of the rights of believers, yet there is some discrimination, especially in terms of the right to personal identity (ID card and family card) and discrimination in education. This Law only admits 6 (six) official religions in Indonesia, so the Law does not acknowledge other religions or beliefs, such as Baha'I religion or adherents of religious beliefs (*Penghayat Aliran Kepercayaan*) which are flourishing in Indonesia.
59. Discriminatory treatment against religious minorities and beliefs occurs in filling religion column in the National Identity Card. For Believers (*Penghayat Aliran Kepercayaan*), the religion column is filled with the sign (-). However, those who refuse to write the sign (-) will be forced by officers to choose one of the official religions recognized by the government. Besides, discrimination also occurs when the State adopts a uniformity of identity using electronic ID card in which the religious beliefs column is not included in the computer provided by the Central Government. This prevents religious adherents whether or not to state their religious identity on their identity cards.
60. The mention of religion in the document implicates another discrimination of other administrative services, such as registration of marriages, the birth certificate, burial, education, and social assistance.

¹⁰ Data is based on the monitoring and research conducted by the Indonesian Legal Resource Center in 2012.

61. In terms of education, religious adherent should find a school which can accept their existence because, besides from administrative problems, their children are also forced to admit guise of religions (according to the six recognized religions in Indonesia) to be accepted. Their children also experience problems at school which is the lack of special religious education for them. These children are forced to attend religious instruction in accordance with the existing official religions, Islam, Christianity, and so on, whereas religious education is one of the subjects included in the Final Graduation Exam. Moreover, religious adherents maintaining their religion status cannot pass the administration whenever they register as civil servants (PNS), a member of the police or the army of Indonesia because they do not have any of the official religions. Thus, they are rejected by administration.¹¹

Recommendation:

62. Insisting on the elimination of the religion column or allowing all religious entities to record their religious identity without exception according to their religious beliefs, and it should not be replaced with any symbol or word.

63. Revising Laws No. 23/2006 and revoking Government Regulation No. 37/2007.

64. Urging the Minister of Interior to immediately make rules and guidelines for electronic ID card in order to facilitate religious minority group in recording their religious identity and beliefs or to eliminate religious identity and belief column in the electronic ID card.

■ Violence, Persecution and Assault towards Minority

65. Of all cases of violations of religion and beliefs freedom in Indonesia in the last few years, mostly target Ahmadiyah group. Following are some forms of persecution and discrimination:

- a. Verbal abuse, including: harassment against Ahmadiyah women, hate speech, intimidation, terror, humiliation, abuse, and perversion of statement;
- b. Physical abuse, such as difficulty of getting a civil service, destruction of property, the closing of mosques, arson attack, forced evictions, and murder. This violence does not occur only in one area, but also almost in all regions in Indonesia.

66. Some cases of violence, assaults and persecution against Ahmadiyah's residence and region through 2011 are:

- a. In Lombok, West Nusa Tenggara, in 2001 the assaults against Ahmadiyah's settlements led 379 Ahmadiyah's followers forcibly relocated to the former Praya Hospital and *Wisma Transito Mataram* until now.

¹¹ This report is based on reports made by HRWG, MADIA, PPC, BKOK. "Menuntut Pemenuhan Hak-hak Konstitusional penghayat Kepercayaan Terhadap Tuhan Yang Maha Esa", (Jakarta: HRWG, 2010).

- b. Parung, Bogor is one of the targets of assault since there is a headquarters of JAI. In 2005, the annual meeting of JAI (*Jalsah Salanah*) forcibly disbanded by a group of people. The mass of people abruptly came and threw wood and stone at the main entrance of the mosque, then destroyed an archway. At the same time, Satpol PP Bogor brought down the nameplate and sealed the main door of JAI Mosque until now.
- c. On February 6 2011, the persecution against 19 members of JAI occurred in Cikeusik-Banten. They were brutally abused causing 3 people killed, 16 others injured, 1 house destroyed and 2 cars burnt.

67. In addition, the assault, closing and destruction of places of worship also occurred to Ahmadiyah Indonesia, either committed by the Government or the Vigilante. There are several cases of assault and closing of houses of worship JAI during the years between 2008 to 2011, some of which are in Cisalada-Bogor, Sukapura-Tasikmalaya, Kuningan Regent, Depok, and Ciamis (in all provinces of West Java) and in Makassar (South Sulawesi).

- a. Monday, July 12, 2010, the expansion of JAI mosque in **Cisalada, Ciampea Udik, Ciampea Bogor** was halted by Civil Service Police Unit (*Satpol PP*) by cutting irons which would be used as foundation of the mosque. The demolition was led by the Head of Ciampea together with 24 members of *Satpol PP* and assisted by 300 police personnel from Police Sub-Precinct Level and Police Precinct Level Bogor. On July 12, 2010, thousands of Cisalada residents went to JAI in Cisalada, Ciampea Udik Village, Ciampea District, Bogor Regent. They called for the demolition of places of worship, schools and the foundation of the mosque.¹²
- b. On January 10 2008, FPI destroyed Baitul Rahim Mosque, Cipakat Cipasung Singaparna, Tasikmalaya District. One year earlier, JAI Sukapura Tasikmalaya mosque was also torn down.¹³
- c. On July 29 2010, 1 Masjid (An-Nur) and 6 JAI mosques were sealed in Kuningan. On July 8, 2010, the Regent of Kuningan announced his plan to seal Masjid and mosques of Ahmadiyah on account of maintaining conducive situation and preventing human rights violations for the second time. The seal is also based on a recommendation by Indonesian Ulema Council No. 38/MUI-Kab/VI/2010 (24 June 2010). With Regent's Instruction No. 451.2/2065/SAT POL PP dated 23 July, on July 26, 2010 and 28 July 2010 *Satpol PP* carried out the sealing.¹⁴

¹² The Wahid Institute, *Laporan Kebebasan Beragama/Berkeyakinan dan Toleransi 2010*, (Jakarta: Wahid Institute, Desember 2010), pg. 62.

¹³ Setara Institute, *Atas Nama Ketertiban dan Keamanan: Persekusi Ahmadiyah di Bogor, Garut, Tasikmalaya, dan Kuningan*, pg. 5

¹⁴ Setara Institute, *Atas Nama Ketertiban dan Keamanan: Persekusi Ahmadiyah di Bogor, Garut, Tasikmalaya, dan Kuningan*, pg. 6

- d. On October 29, 2010, the Regent of Ciamis, West Java, Engkon Komara and The Element of Local Consultation Governmental Body (Muspida) made a deal with FPI Ciamis to ban Ahmadiyah followers to conduct their religious activities at the Ahmadiyah mosque in Jalan Cipto Mangunkusumo Dusun, Pakuncen, Ciamis Sub-District. The agreement was made after FPI intended to seal Ahmadiyah Mosque because it violated 3 Ministers Joint Decree in 2008.¹⁵
- e. In Depok, West Java, sealing and closing forcibly occurred in March 2011. Up to now, Ahmadiyah followers cannot use the mosque since they were threatened that they would be like those victims in Cikeusik by such group who closed it forcibly (Vigilante).
- f. In Eastern Indonesia (Makassar), forced closing of mosque in Makassar was led by Makassar Chief of Police, though there were no closing orders from the court.¹⁶

The Assault and Arson Attack of Syiah's Settlement, Sampang Madura.

68. The Assault against Syiah in Sampang, Madura first took place in December 2011. The incident started in 2004, but broke out in 2011 initiated by the arson attack of a house belonged to the Head of *Jamaat Ahl Bait* (IJABI), Ustaz Tajul Muluk, along with two other houses of Syiah's followers Shiite and a mosque often used for worshipping. On December 29, 2011, the action carried out by approximately 500 people calling themselves Ahlusunnah wal Jamaah.
69. Surabaya CMARs Reports indicate that the police fail to prevent violence against Syiah group. As a matter of fact, the police were on the scene to witness any arson attack. Since 2004, the police have failed to bring any perpetrators of the violence to the legal process.
70. On account of this incident, the police caught Tajul Muluk a few months later on charges of blasphemy, as stated in Article 156a of the Criminal Code. Until after the report is made, Tajul Muluk has received Sampang District Court Decision and is on appeal in the High Court of East Java.
71. Another proof of police negligence in preventing the violence against Syiah occurred in August 2012. Arson attack and destruction of houses belonged to Syiah Sampang's followers took place for the second time. The arson attack took place on August 26, 2012 and resulted in one dead, 4 critical victims and dozens of homes burned. A victim, Hamamah, 45 years, was killed due to the hit of a sharp weapon by one of the attackers. Whereas there were other critical victims named Tohir, Mat Siri, Abdul Wafi, and the mother of Ustaz Tajul Muluk (the leader of Syiah Sampang).

¹⁵ Wahid Institute, The Wahid Institute, *Laporan Kebebasan Beragama/Berkeyakinan dan Toleransi 2010*, 43

¹⁶ "Case Report of LBH Jakarta in 2011". Unpublished report.

Recommendation:

72. Urging the police to be able to work effectively in preventing violence by vigilante groups, while holding the principles of rule of law and human rights.
73. Urging police and law enforcement authorities to prosecute cases of violence committed by groups of vigilantes, including the ones committed by intellectual perpetrators.
74. Ensuring the fulfillment of the rights of minorities to worship, hold their beliefs and use places of worship.

■ The Rights of Establishing a Place of Worship

75. Policy concerning a place of worship is issued in Joint Regulations of the Minister for Religious Affairs and Minister of Interior.¹⁷ There are several requirements set forth in 2 Ministers Joint Decree related to the establishment of places of worship, which are meeting the requirements of administrative and technical requirements of the building, as well as meeting specific requirements, including: 1) a list of names and identity cards of those who will use the place of worship, approximately 90 (ninety) people authorized by the local authorities, 2) local support of approximately 60 (sixty) people authorized by the village chief/head of the village, 3) a written recommendation from the head of the Religion Department of the district/city, and 4) a written recommendation from district/city Forum for Religious Harmony (FKUB).
76. Due to the above requirements, establishment of places of worship faces many problems and is even complicated by the government in the form of violation of the law, sealing and /or forced closing, destruction of places of worship, prohibition of worship, and violence against the religious followers. According to the Setara Institute, there are 17 actions in 2008, while 18 actions in 2009. In 2010, there are 27 restrictions and destructions on places of worship (especially the Christian churches).¹⁸

Contradictory Facts to the Policy

77. Many violations of religious freedom are in the form of prohibition of the establishment of home worship (although it has met the conditions or requirements of establishment), the prohibition of using places of worship, intimidation, terror

¹⁷ Joint Regulation of the Minister for Religious Affairs and Minister of Interior No. 09/2006 and No. 8/2006 concerning the Duties of the Head of Regional/Deputy Head of Regional Traces in the Maintenance Of Religious Harmony, Empowerment Forum Religious, and Establishment of Home Worship.

¹⁸ Wahid Institute Report, *Annual Report The Wahid Institute 2008: Menapaki Bangsa Yang Kian Retak*, (Jakarta: Wahid Institute, December 2008), pg. 53.

and violence against the citizens who are to worship. Some cases of violation of the religious freedom related to the establishment of places of worship are:

78. **The sealing of Indonesian Christian Church (GKI) Taman Yasmin.** GKI Yasmin congregation had received a building permit (Church) from the Mayor of Bogor, Diani Budiarto, in 2006, however, in 2008, the building permit (IMB) was suspended. On account of the suspension, GKI Yasmin congregation has taken legal proceedings (administrative court) through the process of judicial review of the Supreme Court which was finally in favor of the GKI Yasmin congregation. Following the court order, on March 8 2011, the Mayor of Bogor revoked the suspension of building permit of GKI Yasmin. Nonetheless, on March 11 2011, it was issued another decree which revoked GKI Yasmin building permit.¹⁹ On the same day, *Satpol PP* and Bogor City Police forcibly closed the church causing GKI Yasmin congregation to worship on the sidewalk, the road, in other open space close to the church. The sealing of the church is also committed by Vigilante groups in the Bogor, as if they have gained legitimacy from the Government of Bogor with the suspension of building permit.
79. Because of the insubordination made the Government of Bogor, GKI Yasmin congregation had decided to complain to the Commission III of the House of Representatives, Ombudsman, and the National Human Rights Commission as well. Ombudsman has twice sent a letter to the Mayor of Bogor in 2010 questioning the implementation of the Bandung State Administrative Court Order. Due to the negligence of the Bogor Government, on July 8 2011 Ombudsman recommended Bogor Mayor to repeal a decree of building permit revocation, suggested to implement a Recommendation, and Minister of Interior to supervise the implementation of the recommendation, with a copy to the President and the House of Representatives.
80. With a series of legal processes above, still Mayor of Bogor, Minister of the Interior, President and the House of Representatives do not make any concrete actions towards the implementation of the recommendations and the Court Order. Thus the closing of church, terror, intimidation, hate incitements from vigilante groups are still ongoing. Until now, GKI Yasmin congregation has to worship outside the Church which they have legally.
81. **The Incident of HKBP Ciketing Church.** The HKBP Ciketing congregation is one of Christian group who also faces the same complication in establishing their place of worship; in fact they have been trying to get the permit since 1990. The difficulty comes from two sources, from Bekasi Local Government by sealing of the house of

¹⁹ Decree No. 645.45-137 Year 2011 dated March 11, 2011 on the Revocation of Bogor Mayor's Decree No. 645.8-372/2006 on Establishing Building Permit (IMB) on Behalf of the Indonesian Christian Church (GKI).

worship at Jalan Raya No. 14 and from a group of vigilantes,²⁰ wearing "Islamic" attribute and white uniforms.²¹

82. Strong expulsion from the local government and residents, in July 10, 2010, moved to HKBP congregation moved to Ciketing Asam, Mustika Jaya, Bekasi, and planned to process the permit of establishing a place of worship. Although it has met all the necessary requirements, they find it difficult to get the permit; in fact opposition from vigilante group remains to occur. When the congregation had moved to Ciketing and conducting worship there, mass rejection from vigilante with assault and violence followed to obstruct the worship of the Church. During this occasion, most of HKBP women were injured; on the other hand the local police witnessed and let the violence persist.
83. Act of intolerance from those vigilante groups led to a stabbing of one HKBP congregation (Mr. Asia Lumbantoruan Sihombing) when the congregation was walking together toward Ciketing from *Jl. Puyuh Raya 14* by one of the groups of white-uniformed motorcycle convoy grazing the congregation while passing. The perpetrator of the stabbing was sentenced to only 6 months in jail, lighter than accusations penalty of blasphemy and it does not cause any deterrence.
84. **The Sealing of 20 Churches in Aceh Singkil.** Nangroe Aceh Darussalam. In May 2012, at the insistence of local communities, the Regent of Aceh Singkil sealed off 20 churches in the county. The sealing was carried out from 1 – 3 May 2012 on account of that these churches had no building permit.

Government's Actions

85. The Government actively or directly conducts violations. In previous cases mentioned above, government has systematically violated the freedom of religion, worship, and establishing a place of worship in several forms of: a) Repealing church building permits or not issuing a building permit; b) Police and the Government do the sealing and closing of churches; c) repressive action to dissolve the worship of church; d) no concrete actions taken by the Central Government (Minister of the Interior) to address the issues of establishing place of worship, especially with regard to local government.
86. Government's reckless disregard which are: a) no anticipation or prevention from the police against vigilante attacks, b) no legal process to punish the perpetrators

²⁰ The sealing was done by Bekasi Government twice, namely on March 1, 2010 Bekasi Agency Building Arrangement and Supervision and on June 20, 2010, the sealing was done by Mayor of Bekasi's Order, Moctar Mohamad No.: 800/1383-P2B/VI / 2010, dated June 17 2010.

²¹ According to reports from HKBP Ciketing, a mass of people, approximately 50 people, come whenever HKBP congregation is to worship, including when they are to celebrate of Christian celebrations such as Christmas, shouting the words: "*Anjing, Babi, Kristen, Kafir*". From some of the banners and text messages disseminated before the mass action performed on June 20 and July 17, 2011, the attackers were identified, Bekasi Islamic People's Forum and the Islamic Defenders Front Bantar Gebang.

from the police, prosecution and courts. Only a small number of field perpetrators has been convicted with a light sentence.

87. Central and local governments are often subject to majority religious groups. In terms of the establishment of places of worship, even though it has met all requirements of the regulations, because of the refusal from majority community, the government is subject to the will of certain groups although it is against the law. The case of GKI Yasmin is the most recent example.

Recommendation:

88. Reviewing the joint decree on establishment of places of worship and simplify the licensing process.

89. Reforming bureaucracy permit on the establishment of places of worship in order not to violate the rights to worship.

90. Revoking the local government's order to close or seal churches, including those in Aceh Singkil, Bogor and Bekasi.

91. Giving rights to all minority groups to establish places of worship.

92. Preventing violence committed by vigilante groups against the minority religions/beliefs, including securing situations while they are worshipping.

93. Conducting legal proceedings to offenders of violence who impede minority groups to worship; including to those who commit violence occurred.

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