

# INDONESIA

Indonesia is the world's most populous Muslim-majority country. As such they consider themselves leaders in the Islamic world, particularly amongst communities in Asia.<sup>1</sup> Despite this, Indonesia is home to more than three hundred different ethnic groups and multiple religions, most of whom enjoy relative freedom from religiously motivated discrimination.<sup>2</sup>

Of Indonesia's 256 million people, roughly 87% are Muslim, the largest group of these being Sunni, followed by a Shi'a population of roughly three million, and an Ahmadi population of roughly 400,000. Of the 10% of the population self-identifying as Christian, 7% are Protestant and 3% are Catholic. Just under 2% are Hindu.<sup>3</sup> Due to the diverse nature of the different ethnic groups and their professing of different religions, many of these religious minorities enjoy majorities in certain geographical communities.<sup>4</sup>

There are still notable concerns about freedom of religion or belief in Indonesia. These largely stem from the use of laws banning blasphemy or the incitement of religious enmity, which the government fears will lead to societal chaos. As such, while accepted religious minorities are welcomed, officially at least, those that are not recognised often face serious problems.<sup>5</sup>

The most notable example of this recently is that of the Fajar Nusantara Movement or Gafatar. Gafatar was officially banned in August 2015 for being what officials called a 'deviant sect' which combined teachings from Islam, Christianity, and Judaism. In January 2016, a community of 1,000 Gafatar was attacked by a mob in West Kalimantan, their village was burned and the Indonesian navy transported members back to their home villages to be 're-educated' by local religious leaders.<sup>6</sup> Since then, Gafatar communities have been forcibly evicted. On 29<sup>th</sup> February 2016, the Attorney General, the Minister of Home Affairs, and the Ministers of Religious Affairs officially declared the movement blasphemous, and in May 2016, three of the former leaders of the Gafatar movement were arrested on blasphemy and treason charges.<sup>7</sup>

Apart from the Gafatar are numerous cases of blasphemy brought against members of the Muslim community. These are largely concerned with those who take issue with some aspect of traditional Muslim teaching, such as questioning of the Qur'an's origins or making disparaging remarks about official teachings.

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<sup>1</sup> US Commission for International Religious Freedom. '2016 Annual Report'.

<sup>2</sup> The World Bank. 'Indonesia: Overview'.

<sup>3</sup> Central Intelligence Agency. 'World Factbook: Indonesia'.

<sup>4</sup> US Commission for International Religious Freedom. '2016 Annual Report'.

<sup>5</sup> Amnesty International. 'Prosecuting Beliefs: Indonesia's Blasphemy Laws'.

<sup>6</sup> Jewel Topsfield and Amilia Rosa. 'Indonesia cracks down on 'deviant sect' Gafatar after village burned down by mob'. *Sydney Morning Herald*.

<sup>7</sup> Amnesty International. 'Urgent Action: Minority Religious Leaders Detained and Charged'.

## Gafatar Members in Prison

### Ahmad Mushaddeq, Andry Cahya, and Mahful Muis Tumanurung

Mushaddeq, Cahya and Tumanurung were three of the leaders of the Gafatar before the government crackdown and subsequent dissolution in 2016. Mushaddeq had been arrested previously in 2008 for allegedly declaring himself a prophet and trying to form his own sect. He was charged with blasphemy. Upon his release in 2012, he re-established Gafatar, eventually establishing a community in West Kalimantan which also served as the headquarters of the movement.<sup>8</sup>

The movement was banned in August 2015 but did not gain much attention until near the end of the year when a number of persons reported missing were found to have joined the Gafatar.<sup>9</sup> As a result, on 19<sup>th</sup> January 2016, a mob attacked the community in West Kalimantan, burning their village and forcing the adherents to flee. The Indonesian navy stepped in and provided shelter for the group, transporting them back to their home villages, where the government provided for them to be ‘re-educated’ by local religious leaders.<sup>10</sup> On 29<sup>th</sup> February 2016, the movement was officially listed as blasphemous by the Attorney General, the Minister of Home Affairs, and the Ministers of Religious Affairs.

On 25<sup>th</sup> May 2016, Mushaddeq, Cahya, and Tumanurung were all arrested on charges of blasphemy and treason. The blasphemy charge was on the basis of professing heretical teachings which combined the Qur’an, the Bible, and Jewish teachings, creating what was seen as one apparently abhorrent whole. The treason charge was levelled against them for their creation of a separate community based on their beliefs, which was deemed an attempt to create a separate, sovereign Gafatar state.<sup>11</sup>

On 30<sup>th</sup> December 2015, **Eko Purnomo** and his wife **Veni Orinanda** were arrested in Yogyakarta for allegedly abducting physician Rica Tri Handayani and forcing her to join the Gafatar movement, which allegedly caused her psychological trauma. The couple was convicted under Criminal Code Article 332 or ‘being guilty of abduction’ and were sentenced by the Sleman District Court to two years and one year in prison respectively. During the trial Rica testified that she joined Gafatar of her own free will and bought her own ticket to travel

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<sup>8</sup> Edo Karensa. ‘Police Arrest Three Gafatar Leaders for Blasphemy, Treason’. *Jakarta Globe*.

<sup>9</sup> Jewel Topsfield and Amilia Rosa. ‘Banned Indonesian group Gafatar says its aim is food security, not separatism’. *Sydney Morning Herald*.

<sup>10</sup> Jewel Topsfield and Amilia Rosa. ‘Indonesia cracks down on ‘deviant sect’ Gafatar after village burned down by mob’. *Sydney Morning Herald*.

<sup>11</sup> Amnesty International. ‘Urgent Action: Minority Religious Leaders Detained and Charged’.

to West Kalimantan where the movement was establishing a village. It was also revealed during the trial that Rica held more seniority in Gafatar than Veni and that Rica was the one who converted Veni to the movement.

### **Shi'a in Prison**

**Andreas Guntur's** case offers a clear example of the institutional inflexibility in accepting divergent Islamic teachings and the use of blasphemy laws in persecuting other Muslims. Guntur was a local leader of Amanat Keagungan Ilahi (AKI), which has been banned in West Java province since 1982 and nationwide since 2009. His house was raided during a prayer gathering on 14<sup>th</sup> October 2011, wherein officials found religious posters written in Arabic that quoted passages not from the Qur'an. Upon questioning, he claimed that they were words used to help heal him when he was sick some years previously. They were part of his beliefs, which he was trying to help impart on others. He was subsequently arrested.

Guntur was charged under Article 156(a) of the Penal Code stipulating blasphemy and sentenced to four years in prison in March 2016.<sup>12</sup> The material that he was teaching was deemed deviant to Islam and doubly dangerous for his professing and propagating these ideas with others.

This slight deviation from accepted teachings need not be great. In 2012, Tajul Muluk, a Shi'ite leader, made comments about having to pray only three times a day rather than five and on a less strict reliance on the Qur'an for Islamic learning.<sup>13</sup> He was given a similar sentence to that of Guntur.

The full list of documented cases of FoRB prisoners for each denomination is available on the USB key attached to this report and on our website: <http://hrwf.eu/forb/forb-and-blasphemy-prisoners-list/>.

## **Laws Used to Criminalize Religious Activities**

In order to protect public order through the prevention of perceived insult towards religious or ethnic groups, the government of Indonesia has admitted to limiting free speech. In a society as pluralistic as Indonesia, this is seen as preventing societal chaos that might result in turmoil culminating in terrorist activities. Much of the misuse of laws in order to perpetrate breached of religious freedom have been framed thus.

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<sup>12</sup> Amnesty International. 'Prosecuting Beliefs: Indonesia's Blasphemy Laws'.

<sup>13</sup> Ibid.

**Indonesian Penal Code, 1981<sup>14</sup>:**

(Article 156a)

By a maximum imprisonment of five years shall be punished any person who deliberately in public gives expression to feelings or commits an act,

- (a) which principally have the character of being at enmity with, abusing or staining a religion, adhered to in Indonesia;
- (b) with the intention to prevent a person to adhere to any religion based on the belief of the almighty God.

It is under this pretense that divergent Islamic teachings are deemed punishable offenses and those following faiths that are not easily categorised, such as the Gafatar. In addition to this article, the ex-Gafatar leaders were charged with treason and attempting to foment a revolution.

**Indonesian Penal Code, 1981<sup>15</sup>:**

(Article 107)

- (1) The attempt undertaken with the intent to cause a revolution shall be punished by a maximum imprisonment of fifteen years.
- (2) Leaders and originators of an attempt referred to in the first paragraph shall be punished by life imprisonment or a maximum imprisonment of twenty years.

(Article 110)

- (1) The conspiracy to one of the crimes described in Articles 104-108 shall be punished by a maximum imprisonment of six years.
- (2) The same punishment shall apply to the person who with the intent to prepare or facilitate one of the crimes described in Articles 104-105:
  - 1st, tries to induce others to commit the crime, to cause others to commit or participate in the commission of the crime, to facilitate the crime or to provide opportunity, means or information relating thereto;
  - 2nd-ly, tries to provide himself or others with the opportunity, means or information for committing the crime;
  - 3rd-ly, has in store objects of which he know that they are destined for committing the crime;
  - 4th-ly, makes plans ready or is in possession of plans for the execution of the crime intended to be made known to other person;

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<sup>14</sup> Government of Indonesia. 'Indonesian Penal Code'.

<sup>15</sup> Ibid.

- 5th-ly, tries to hinder, to obstruct or to defeat a measure taken by the Government to prevent or to suppress the execution of the crime.
- (3) The objects referred to in the foregoing paragraph under 3rd-ly may be forfeited.
  - (4) Not punishable shall be the person from whom it is evident that his intent is merely aimed at the preparation or facilitation of political changes in the general sense.
  - (5) If in cases mentioned under section (1) and (2) of this Article, the crime really takes place, the punishment may be doubled.

The Gafatar leaders were accused of trying to foment revolution through their formation of a separate Gafatar community, or so the authorities claim, under Articles 107 and 110 listed above. As seen in 110(2), this is exacerbated by the proselytization aspect of their activities in which they, again according to the authorities, induced others to join them in their subversion of the state. All of this is necessarily predicated on the veracity of the accusations levelled against them under Article 156a.

The problem with this is that the Gafatar are, according to all primary accounts, peaceful. There is no threat to others, their feelings, or their religion. In the Indonesian constitution, freedom of religion is ensured under Article 28E,<sup>16</sup> and therefore the feelings of one group do not constitute sufficient grounds for a religious slight of another if there is no other interaction or abuse. On the contrary, local Islamic groups attacking the Gafatar community in West Kalimantan would be a breach of Article 156a(b)'s prohibition on restricting the worship of other religions.

## **National Standards for Detention Conditions**

### **Indonesian Constitution, 1945<sup>17</sup>:**

(Article 28G)

- (1) Every person shall have the right to protection of his/herself, family, honour, dignity, and property, and shall have the right to feel secure against and receive protection from the threat of fear to do or not do something that is a human right.
- (2) Every person shall have the right to be free from torture or inhumane and degrading treatment, and shall have the right to obtain political asylum from another country.

(Article 28I)

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<sup>16</sup> Government of Indonesia. 'The 1945 Constitution of the Republic of Indonesia'.

<sup>17</sup> Ibid.

- (1) The rights to life, freedom from torture, freedom of thought and conscience, freedom of religion, freedom from enslavement, recognition as a person before the law, and the right not to be tried under a law with retrospective effect are all human rights that cannot be limited under any circumstances.
- (2) Every person shall have the right to be free from discriminative treatment based upon any grounds whatsoever and shall have the right to protection from such discriminative treatment.
- (3) The cultural identities and rights of traditional communities shall be respected in accordance with the development of times and civilisations.
- (4) The protection, advancement, upholding and fulfilment of human rights are the responsibility of the state, especially the government.

According to the Constitution, all people have the right to freedom from torture and inhuman treatment without discrimination and moreover, it is the responsibility of the government to protect that right. Indonesia ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) on 28 October 1998. They therefore have both the constitutional provision and the international standards to provide for a responsible, humane system.

## **National and International Reports on Prison Conditions in Indonesia**

### **Universal Periodic Review: Compilation of UN information, 2012<sup>18</sup>:**

(Paragraph 17)

CAT was deeply concerned about the numerous, ongoing, credible and consistent allegations, corroborated by the Special Rapporteur on torture and other sources, of routine and widespread use of torture and ill-treatment of suspects in police custody, and by members of the armed forces and mobile police units ('Brimob'). CAT was concerned that the current investigation system relied on confessions as a common form of evidence for prosecution, thus creating conditions that might facilitate the use of torture and ill-treatment of suspects.

(Paragraph 19)

The Special Rapporteur on torture raised concerns regarding detention conditions and the lack of medical care...

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<sup>18</sup> Human Rights Council Working Group on the Universal Periodic Review. 'Compilation of UN Information. Indonesia (2012)'.

(Paragraph 31)

CAT reiterated its grave concerns over the climate of impunity for perpetrators of torture, including military, police and other State officials, particularly those holding senior positions who are alleged to have planned, commanded or perpetrated acts of torture. It noted with regret that no State official alleged to have perpetrated torture had been found guilty, as confirmed by the Special Rapporteur on torture.

**Written statement submitted by the Asian Legal Resource Centre, 2016<sup>19</sup>:**

(Paragraph 3)

Torture is conducted along a few patterns in Indonesia, with the most common torture pattern being that which occurs in police custody, as a method to obtain confessions from suspects. The AHRC has documented and reported one such case from Widang Police Sector, Tuban regency, East Java province. Fiki Arfiando (13), an underage victim, was tortured to death by police officers in the Widang Police Sector. The police arrested Arfiando without any arrest warrant, and, without proper investigation, forced him to confess to stealing a motorcycle belonging to his neighbor, Mr. Husen. According to the report from a local hospital, Arfiando was injured under his eye 3 x 1 cm and under his right eye 0.5 x 0.5 cm as a result of torture (AHRC-UAC-094-2015).

(Paragraph 6)

As seen in several cases already mentioned, torture frequently results in the death of victims. In the last one year, the AHRC has documented seven cases of torture resulting in the death of the victims. One such case reported in 2015, is based on torture that occurred in 2011 in Samarinda City, East Kalimantan Province, of 16-year-old Ramadan Suhuddin (AHRC-UAC-065-2015).

(Paragraph 8)

The Indonesian Government has taken baby steps to address the inadequacies of the legal system in dealing with torture. Indonesia's new penal code has been in the drafting process for around 10 years, and, as of now, only the first chapter has been completed. The AHRC, along with its local partners, has been trying to lobby for the regulation of punishment of torture in the new penal code. While far from ideal, such a provision has recently been made.

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<sup>19</sup> Human Rights Council. 'Written statement submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status'.

The Indonesian prison system runs rife with corruption and prisoners are subject to extensive physical abuse and poor conditions. Prisoners who are more valued, such as inmates with money, tend to face relatively lenient sentences and better conditions while those from targeted and minority communities do not.<sup>20</sup> This makes the conditions in prisons for certain religious minorities much more precarious, due more to the impunity given to some in an inherently violent situation. Drugs, sex, and violence in Indonesia's prisons is rampant.<sup>21</sup> Prison conditions vary across the country and from prison to prison depending on the management at each facility.

## Conclusions

Indonesia has the largest Muslim population of any country in the world, predominantly Sunni. It is also home to more than three hundred ethnic groups and many minority religions such as Protestant and Catholic Christians, Hindus, Shias, and Ahmadis. The state publicly touts the country's diversity, even promoting the idea that Indonesia is an oasis of tolerance for all religions and beliefs. However, many of these groups live in isolated communities and experienced severe hostilities which the Indonesian government has been reluctant to address in any comprehensive manner.

For instance, the twenty-five million Christians of Indonesia live mostly on the smaller islands rather than in the population centers of Java and Sumatra.<sup>22</sup> Tension between religious groups has sometimes escalated into riots, violence, and even terrorist acts. Blasphemy laws have been used to restrict speech and religious teachings so that societal order could be maintained and conflict deescalated. The laws have also resulted in the arrest of Muslims who propagate non-traditional doctrines, such as members of the banned Gafatar movement. State-sponsored opposition to religious groups like the Gafatars may help restore order in the short term but it fails to address the root of the problem, which is religious intolerance and mob violence in these areas.

Indonesia should release those prisoners who are detained for peacefully practicing or propagating their faith. The government should also repeal blasphemy laws that are restrictive of religious freedom and speech and have been used to persecute minorities within the country. It should also urgently address the mistreatment, torture, and impunity which plague the country's prison system. This includes comprehensive reforms that should be embodied in Indonesia's new penal code in accordance with UN minimum rules for the treatment of prisoners.

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<sup>20</sup> Nikki Edwards. 'Incarceration in Indonesia'. *Inside Indonesia*.

<sup>21</sup> VOA News. 'Drugs, Corruption Rampant in Indonesian Prisons'.

<sup>22</sup> <http://uk.reuters.com/article/uk-indonesia-security-idUKKBN0U30AP20151220>