

CHAPTER 3

The Potrait of Violation on Freedom of Religious/Belief

In this session, SETARA Institute elaborates some specific cases which objectively presenting the situation of freedom of religious/ belief in Indonesia. There are too many cases which capture the incidents and violation actions on freedom of religious/ belief in 2012. We purposely choose some of cases to be explored and give the public -- which concern to the issue of human rights advancement – which in our perspective very clearly become the specific portraits of real situation reflecting freedom of religious/ belief along 2012. Some of chosen cases are: case of HKBP Filadelfia at Bekasi, case of churches sealing in Aceh Singkil, case of Shia Sampang II, case GKI Yasmin at Bogor, case of Ahmadiyah at Tasikmalaya Jawa Barat, and case of local Syaria Regulation in West Java.

The study on cases of incidents and violations involves some of authors. The case of HKBP Filadelfia in Bekasi written by Amininudin Syarif and M. Irfan and presented in sub-section titled “(The Death of) Law State in Bekasi: Cases HKBP Filadelfia.” Case of Shia Sampang II explored by Akhol Firdaus, presented in an article of sub –section “The Worsen Human Tragedy: Case of Shia Sampang II.” Case of Ahmadiyah in West Java written by Abdul Khoir, presented in an article titled “Recurring Violence on People (without) State: The Tragedy of Ahmadiyah in West Java.” The case of Churches Sealing

in Aceh Singkil, written by Hilal Safary and presented in sub-section, titled “The Plight of Christian in Pancasila Country: The Tragedy in Aceh Singkil”. Halili also explored about local regulation of syaria in West Java which written in sub-section article titled: “The Strong-Willed ‘Champion’: Kepala Batu Sang ‘Juara Bertahan’: about Local Syaria Regulation in West Java”. The last is case of GKI Yasmin in Bogor written by Bahrin dan Agnes Hening Ratri and presented in “The Story of Citizen without Laws: Continued Case of GKI Taman Yasmin.”

All of case descriptions in part III presents some terms. First, from its regional coverage, the violation on freedom of religious/ belief occurred in some areas; inside Java and outside Java. Generally, the distribution of violation on freedom of religious/ belief in Indonesia in 2012, explained in the previous section of this book. The narration of exploration in this section is only a little “snippets” of regional distribution which describe about the violations on freedom of religious/ belief that occurred everywhere in Indonesia, a country with principle of *Bhinneka Tunggal Ika*.

Second, from the identity aspect of socio-religious, the violations afflicts some of resident of a state with varied religion/belief, even Christian or Moslem, moreover the faiths/local religion (even the description is not included, but has quite explained enough in report of 2011). One for sure, in the context of the victims is the vulnerable minority group.

Third, some of cases describe involvement of various actor particularly the state and apparatus of government inside. The violation by state occurred in various faces, particularly the direct action (by commission) and omission action (omission).

The construction of those cases is already complete to explain about the state that it and its government should be present to prevent the cases of violation run sustainably, protracted, and recurrence on freedom of religious/ belief. The state and three authority and character, such as to push, to monopolize, and includes the whole. The role of state is so important and urgent in the three levels as well: preventive,

curative, and preservative.

It's time to the state serves actively in order to run for two obligations; on the one hand, the state must implement the constitutional provision about guaranty of freedom of religious/ belief. The state must protect the whole nation and entire of country of Indonesia, including the whole nation with their minority religion/belief to embrace a religion/belief and to worship accordance to their religion or belief.

The state (concretely have government apparatus inside, both in central or regional level) should see that the violations occurred in this Republic. Like a puzzle, those mentioned violation is almost getting perfect. The construction of "mal" or main master of those violations is already complete and clear. It clearly means that problems should be handled by the state. Something that we are still waiting for is the solutions of those violations performed by official state.

A. Case of HKBP Filadelfia: The Paralysis of Law State in Bekasi

The constitutional guaranty on freedom of religious/ belief³⁸ purposed to give enough space for followers of a religion or belief to worship and to do their ritual activities with halcyon and peaceful. Our *founding fathers* when formalize that constitution certainly very aware of Indonesian diversity of religion/belief. They realized about the fact that Indonesia has certain religion which being the majority. However it does not meant that the majority becomes the superior on minority. The assault and privilege of a certain religion or belief must be avoided. Precisely here is the role of state lies as the protector of its citizens. The diversity becomes one of Indonesia common wealth of nation which should be an inspiration and spirit of Indonesia to retaining the Unitary Republic of Indonesia (NKRI), not contrary. Appreciating attitude among fellow of religious adherents, should not just be the mere of

38 Article 29 (2) the 1945 Constitution confirms that: "The State guarantee the freedom of each people to hold his own religion and to worship accordance to that own religion and belief."

verbal statement. But more than it, tolerance means the appreciation of all values which being the reference in order to establish inter-religion harmony. This value was actually lost from the life of Indonesian.

Some of incidents which showing inter-religious tolerance, by the time seemed to justify that Indonesian become more intolerance. Even the democracy in Indonesia in recent years got praise from world society, the condition actually not directly proportional with the real tolerance condition of the nation.



Under the sun with plastic sheeting, HKBP Filadelfia followers do worship beside the road on February 5th, 2012, (Source: www.andreasharsono.net)

The policy which issued by government in central or local should be protecting minority group which frequently afflicts discrimination. When an issued policy by government tends to reduce or grab the rights of minority, so the people must protest and criticize that policy. If there's no courage to criticize the political policy, it means that the people not respect/obey the system anymore. The predicate of democratic state with biggest Moslem majority of the world which dedicated to Indonesia means nothing if there is no protection system for minority groups. Because, the more democratic a country, the more

people getting free.³⁹

By understanding the freedom of religion deeply, the tolerance would be established. The tolerance means, accepting the diversity of tribes, ethnics, races, and religions is the constructive attitude. And contrary, the attitude of glorifying the differentials of tribes, ethnics, races and religion which expressed in the form of chaos or violence is the meaning of destructive attitude.⁴⁰

However, the facts of infringement or disavowal on diversity become more increasingly apparent, particularly politization of diversity on religion/belief to be the sensitive issue. Some of real portraits were derived to some regions of Indonesia, the Pancasila country with principle of *Bhinneka Tunggal Ika*. One of the serious negative portraits that would be annotation for all element of the nation is the case of HKBP Filadelfia. This case could be a sample to see the life of inter-religion of Indonesia.

HKBP Filadelfia located in the area of Bekasi regency, West Java. The boundaries Bekasi regency includes the north of Java Sea. The bounder of the south is Bogor regency, and in the west directly adjacent to DKI Jakarta and Bekasi Municipality. The east is directly adjacent to Karawang District. The population of Bekasi is 528.166 KK (Head of Household). The District of Bekasi consists of 23 sub-districts and 187 towns. The amount of towns in every sub-district is around 6-13. The sub-district with the smallest amount of towns is Centre of Cikarang (Cikarang Pusat), Bojongmanggu, and Muaragembong. And the sub-district with biggest amount of towns is Pabuaran sub-District.⁴¹

HKBP Filadelfia Bekasi is actually afflicting the intimidation on

39 Fareed Zakaria, *Masa Depan Kebebasan, Penyimpangan Demokrasi di Amerika dan Negara Lain*, (terj), Jakarta: Ina Publikatama, 2004, p. 23

40 Nur Achmad, *Pluralitas Agama: Kerukunan dalam Keragaman*, Jakarta: Kompas, 2001, p. 96

41 The Geographical Condition of Bekasi Regency, available at <http://www.bekasikab.go.id/#>; Internet; downloaded on December 18, 2012.

establishing worship of place⁴² since 2000. Whereas the verdict law in the court has won the lawsuit of HKBP Filadelfia. The Bandung State Administrative Court (PTUN) states cancellation of the decision letter (SK) of Regent of Bekasi about termination of establishment of worshipping place and worshipping activity, in Gereja Huria Kristen Batak Protestan (HKBP) Filadelfia, RT 01 RW 09 Dusun III, Desa Jejalen Jaya, Sub-district Tambun Utara, Bekasi, Jawa Barat and the regent should revoke that SK, and give a lisenca to establish house of worshipping for HKBP Filadelfia accordance to the applicable regulation.⁴³

But the verdict of PTUN cannot give any guaranty for HKBP Filadelfia to practice their religion. Some kinds of intolerance action and discrimination still afflict them as a part of citizens. Some of worshipping activities of HKBP's followers, obstructed, prohibited, and even dissolved, which as occurred on Sunday, March 25, 2012.

In the early morning, the followers of HKBP established the worshipping place for themselves by setting the tent. Some of demonstrators that resist to HKBP also installed the loudspeakers. The worship that scheduled will began on 09.00 WIB.

At 07.15 WIB, some of woman demonstrators came. Then they entered the location of worshipping and occupied that place. And then, finally those demonstrators started to hold religious activity on that place. Around fifteen minutes later, other demonstrators (men and youths) came and block the path of 2 directions.

42 In the Article 1 of Joint Decree of Minister of Religion and Minister of Internal Affair Number: 9 Year 2006 and Number 8: Year 2006 about Implementation Guidelines of Task of Regional Head/Deputy of Regional Head in Maintenance of Religious Harmony, Empowerment of Religion Harmony Forum, and Construction of Worshipping House 3rd point, mentioned: "The House of Worship is a construction which has certain characteristics that particularly used to worship, permanently designated for all of the each religion followers, not including the family's house of worship."

43 Chris Poerba, "Kasus Filadelfia, Kodokpun Dipaksa Intoleran", April 25, 2012, the article is available in <http://icrp-online.org/042012/post-1864.html>; Internet; Downloaded on December 18, 2018

At 08.00 WIB the followers of HKBP Filadelfia came to their worshipping place, but because of blocked ways, they last about 100 meters from the location. The demonstrators were shouting, beating the drum (bedug), carry on the banners, and so on. Their goal is refuse of HKBP Filadelfia. Moreover, the oration and shout impressing discrimination and racist.

After two hours negotiation with police and government representative of Tambun Utara Sub-District, at 10.00 a.m. HKBP Filadelfia finally disband and dismantle their worshipping place after the police asked the woman demonstrators to out from that place with an agreement that the followers of HKBP Filadelfia canceled their worship there. The situation along demonstration was so eerie. The next-week worship, Sunday April 1, 2012, also threatened to be disturbed again by more great number of mass.

The intimidated action recurred again on Sunday, April 22, 2012. Moreover that intimidation leads to the physical violence. It started from when followers of HKBP Filadelfia were intercepted by Public Order Agency (*Satpol PP*), with the reason of not-conducive condition. But the followers of HKBP Filadelfia, which amounts around 100 persons, still wanted to worshipping, and they walked from Villa 2 Tambun to Jejalen Jaya Kampong. Shoving action among the followers with the apparatus occurred. It was very irony. But, at 09.15 the followers still did worshipping even only in front of the entry gate of residence of Villa Bekasi Indah 2.

The intimidation on followers of HKBP Filadelfia at that day was documented in a documenter movie. From that movie, it clearly seen when the worship will be begun, there is a man who stands nearly the crowd. He wore a hat which in that movie named: Ainun's Brother (Adik Ainun). He watched that shoving action, but when the followers started to begin their worship, that man gone by taking on the motorcycle (maybe ojek). The situation seems going to be safe. But at 09.15 a.m., around 500 of intolerance mass came to that place while the worship got finished. They broke the defense of *Satpol PP*, but successfully banished. And when the worshipping activity finished and the followers would go home, a woman appeared and throw seven

frogs that feet are tied each other. Finally, at 11.00 a.m., the police came with a truck of instruments and immediately made the posse to fortify the beleaguered followers. The interesting view of that movie is when those 500 intolerance mass came on the followers, involved one of apparatus, the Chief of the District, his name is Soeharto.⁴⁴

On Thursday, May 17, 2012, the followers held worship activity again at 09.00 a.m. in the morning. The worshipers were coming since 08.30 a.m. But, at that time they were intercepted by mass. The mas considered that the worship is illegal. Because forbidden to practice their worship, the followers of HKBP finally negotiated to the police. Unfortunately, that around 1 hour-negotiation had no good solution. The followers just prayed together for three minutes and then disbanded. That incident occurred at May 6, 2012. The government asked the followers of HKBP Filadelfia found another place to do their religious activities.⁴⁵

Based on the interview of SETARA Institute and HKBP Filadelfia related to that afflicted case, explained that the incident begun in 2008 when the followers of applied of Recommendation to Build House of Worship (Church of HKBP) to the Head Official of Ministry of Religion District of Bekasi, the Inter-Religious Harmony Forum (FKUB) of Bekasi District, and also to the Regent of Bekasi District to get Construction Permit (IMB) for house of worship. That application was proposed accordance to the prevailing conditions which arranged in Joint Decree of Ministry of Religion and Ministry of Internal Affair 9 of 2006, and 8 of 2006.⁴⁶ Even that application equipped with the

44 Chris Poerba, "Kasus Filadelfia, Kodokpun Dipaksa Intoleran", April 25, 2012, the article is available in <http://icrp-online.org/042012/post-1864.html>; Internet; Downloaded on December 18, 2012.

45 "The followers of Filadelfia were blocked when going to worship", *tempo.co* (online news) May 17, 2012, search in <http://www.tempo.co/read/news/2012/05/17/173404466/Jemaat-Filadelfia-Dihadang-Saat-Hendak-Beribadah>; Internet; downloaded on December 18, 2012.

46 In Part IV about Establishing House of Worship Article 14 mentioned:

(1) The establishment of house of worship must be fulfilling the administrative and technical requirements of building construction.

provision which already submitted by the HKBP Filadelfia since April 2008, up to October 2009, the permit which asked has never been published.⁴⁷

Ironically, the lisenca was not given by the Regent, but instead issued a decree (SK) No.300/675/Kesbang Pollinmas/09 about discontinuation the activity of the establishing process and worship activity, Huria Kristen Batak Protestan (HKBP) Filadelfia, located in RT. 01 RW.09 Dusun III, Desa Jejalan Jaya, Tambun Utara Sub-district, Municipality of Bekasi, West Java, which issued on December 31, 2009.⁴⁸

The HKBP Filadelfia assess that the decree of Regent is contrary to the law and justice, so that on March 2010, HKBP Filadelfia submitted the claim on publishment of the decree of Bekasi Regent No. 300/675/KesbangPollinmas/09 through the state administrative court (PTUN) Bandung.

On September 02, 2010, The Bandung State High Court (PTN Bandung) grants verdict of HKBP Filadelfia through declaration Nomor: 42/G/2010/PTUN-BDG which the injunction declared:

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- (2) Besides fulfilling the requirements as stated as in verse (1) establishing the house of worship should be fulfilling some particular requirements, such as:
 - a. List of name and identity cards of users of worshipping house at least 90 (ninety) peoples which was passed by the local official based on the regional level boundary as stated as in Article 13 verse (3);
 - b. Support from surrounding people at least 60 (sixty) which was passed by Kepala Desa/Desa Kepala Desa;
 - c. Written recommendation from Office Head of Ministry of Religion in District/City level; and written recommendation from FKUB of District/City level.
 - (3) In the context of requirements as stated as in verse (2) letter a, is fulfilled, but requirement of letter b is unfulfilled yet, the local government should facilitate the availability of location for house of worship establishing.

47 The Interview of Setara and Judianto Simanjuntak (Advocacy Team and Litigation of HKBP Fildelfia) through the electronic mail dated on December 14, 2012.

48 *Ibid.*

- Grants the claim of all litigants.
- To declare void the decree of Bekasi Regent No: 300/675/KesbangPollinmas/09, Dated December 31, 2009, about: Cessation of Activity of Establishment of House of Worship and Worshipping Activity, Gereja Huria Kristen Batak Protestan (HKBP) Filadelfia, at RT 01 RW 09 Dusun III, Desa Jejalan Jaya, Sub-district Tambun Utara, Regency of Bekasi, West Jawa, which published by the defendant.
- To ordered the Tergugat to repeal the decree of Bekasi Regent No.300/675/KesbangPollinmas/09, dated on Desember 31, 2009, about: Cessation of Activity of Establishment of House of Worship and Worshipping Activity, Gereja Huria Kristen Batak Protestan (HKBP) Filadelfia, at RT 01 RW 09 Dusun III, Desa Jejalan Jaya, Sub-district North Tambun, Regency of Bekasi, West Jawa, which published by defendant.
- To command on the fefendant to processing the defendant's submitted permit and giving the permit to establish the house of worship appropriate with the applicable constitutions.

Because of this verdict, the defendant which contextually is Regent of Bekasi, appealed to The High Court of Administration of State (PT. TUN) in Jakarta. On March 30, 2011, PT.TUN Jakarta through its verdict of No.255/B/2010/PT.TUN.JKT, and won again HKBP Filadelfia and upheld the decision of PTUN Bandung.

On June 28, 2011, PTUN Bandung published the case decision No.42/G/2010/PTUN-BDG Jo No.255/B/2010/PT.TUN.JKT, which establishes:

- Granted the petition of plaintiff.
- Declare the matters of number: 42/G/2010/PTUN-BDG Jo Number: 255/B/2010/PT.TUN.JKT, stated that those do not formally eligible so that its examination cannot be increasingly submitted to the level of Supreme Court of Republic of Indonesia.

The stipulation of PTUN Bandung is a mandate of Article 45A (2) Letter c Law 5 of 2004 on The Alteration on Law 14 of 1985 About Supreme Court⁴⁹ jo Law 3 of 2009 on The Alteration of Both Law 14 of 1985 About The Supreme Court which restricts the matter of State Administration that could be proposed its legal remedy of cassation to Supreme Court, because the local official's decision as the object lawsuits, the decision reach is applicable in the regional scope only, so that it exempted in legal remedy of cassation or on the other hand the scope of Decision of State Administration Official that was sued, just locally.⁵⁰

Through the stipulation of PTUN Bandung on the matter No.42/G/2010/PTUN-BDG Jo No. 255/B/2010/PT.TUN.JKT, dated on June 28, 2011, hence therefore, the stipulation of PTUN Bandung No.42/G/2010/PTUN-BDG, dated on September 02, 2010 Jo stipulation of PT.TUN Jakarta No.255/B/2010/PT.TUN.JKT, dated on March 30, 2011 was final. It meant that the stipulation of PTUN Bandung and PT.TUN Jakarta had fixed legally binding (*inchracht*).

Even HKBP Filadelfia won those verdicts which supported by verdict of the court that meant had fixed legal and binding (*inchracht*), but up to now, the Regent of Bekasi has not imply that court verdict. It means that Bekasi Regent has done defiance of law that is the defiance on court verdict which fixed legally binding. This condition is also a form of violation on constitution, Law 39 of 1999 on Human Rights,⁵¹

49 Article 45A (2) Letter c is: "the matter of state administration that the object lawsuit is in form of the decision of local official which the legal scope only applicable in related area."

50 Interview of SETARA with Judianto Simanjuntak (Advocacy Team and Ligation of HKBP Fildelfia) through electronic mail dated on December 14, 2012.

51 One of article contained in it, that explicitely mentioned about the freedom of religious/ belief is Article 22 which reads:

- (1) Every humankind are free to choose their own religion and to worship accordance to that their religion and belief.
- (2) The state assurance the freedom of people to choose their own religion and

Law 12 of 2005 on The Ratification on International Covenant of Civil Right and Politics, which concede the right of citizens to have a religion, to worship and to establish house of worship.⁵²

1. The Trigger Factors, Actor, and Victims

There some supporting factors of incident's occurrence that afflict this Church of Filadelfia. Regardless of the tendency of reason which stated by some who feel have justification to commit violence, but still it violates some rights of certain groups that protected by the state. But, the most basic factor from this sealing of HKBP Filadelfia's Church is a form of disobedience of the local government, in this context is Government of Bekasi Regency, in implying the stipulation of court decision that won HKBP Filadelfia.

Besides that, the absence of pressure from central government to local government with under the pretext of local autonomy, means acts some omission that creating more heats-up situation. The central government necessarily taking part to initiate the enforcement of freedom of religious/ belief in Bekasi, a District which being part of Indonesia. Jakarta cannot dodge the pretext of economic issues, because the issue of religion stipulated in Local Government Law (*Peraturan Daerah*) is not being a part of decentralized affair. Because if that reason, the Central Government should take a minimum step to ensure that the below unite did not do disobedience on judicial decision.

Based on the research done by SETARA Institute, the actor of Church of HKBP Filadelfia consists of some society groups (which reject the existence of Church of HKBP Filadelfia) and government. The government in this context is local government, the Regent of Bekasi District, and Central Government.

In the case of violation on HKBP adherents, besides the adherents

to worship accordance to that religion and belief.

52 The interview between SETARA and Judianto Simanjuntak (Advocacy Team and Ligation of HKBP Fildelfia) through the electronic mail dated on December 14, 2012.

of HKBP, the others which also become the victims of intolerance action done by those actors are some activists of pluralism. Tantowi Anwari alias Thowik is one of them. This activist and journalist from Journalist Union (Serikat Jurnalis) for Diversity (Sejuk) became the victim of assault and torture from Intolerance group.⁵³

On the occurrence day, Sunday, May 6, 2012. Around 09.00 a.m., the way to the location of worshipping house of HKBP's adherent in Desa of Jejalen Jaya, Tambun blocked by approximately 500 intolerance masses. They tried to sweep the adherents. There is a tension happened between the intolerance mass with adherent of HKBP because of *Satpol PP* is joining the intolerance mass to block the adherent. The adherents came, including the Priest Palti Panjaitan. A negotiation occurred between the priest and Agus, the leader of *Satpol PP*, but that negotiation ends deadlock. Finally, some of adherents of HKBP return back home.

But nevertheless, the concentration of the mass was still happened in front of the Clinic of Medika Jejalen Jaya. There was some adherent who still comes to get some information about the possibility owned by adherents to worship. But, they were being chased, insulted, and shouted with rude words.

At around 09.20, the situation was getting heats-up. One of FPI's member, Murhali Barda, drags and interrogates Thowik and asks him to explain about the meaning of "Lawan Tirani Mayoritas" which written on the T-shirt. Thowik tried to explain that SEJUK wants to campaign the issue of Peace Indonesi for all of the communities. But those assumed that the T-shirt means resistance of Islam as majority. The explanation of Thowik was nothing for them, and they still considered Thowik as rival of Islam. Then Thowik was stripped naked and his identity card was confiscated by the leader of that group (FPI Tambun), Murhali Barda. There is even a provocation also from FPI which states Thowik against Islam. Thowik also got racist treatment by

53 "Kronologi Penyerangan dan Penganiayaan terhadap Tantowi Anwari, aktivis SEJUK (kasus Gereja Filadelfia)," article was accessed from <http://dokumentasi.elsam.or.id/reports/view/71> on December 10, 2012

shouted, “This Bataknese!”

Then around a hundred people get in and some of them tried to hit and to kick Thowik until his arm and back scuffed and bruises. Those mass action blocked by polices and *Satpol PP*. Thowing finally evacuated by a police named Nanang from the location to Police office in Tambun. Thowik arrived in that office without clothes, he did not want to be interviewed. He just being inspected his identity and asked to explain about the chronology.

2. The Response of Government

Up to now, the residents still refuses the establishment the Church of Huria Kristen Batak Protestan Filadelfia, Bekasi, West Java. Base on the resident’s explanation, the written regulation about the establishment of construction should be obtaining the permit minimally from 60 people surrounding. Those resident’s arguments refer to the Joint Decree of Two Ministers.⁵⁴ On the other hand, the Regent Government of Bekasi doesn’t want to run the court verdict which has legally binding. Even make some excuses to avoid the responsibility by buying time. The Vice Regent of Bekasi, Rohim Mintadireja said that Bekasi District will submit the judicial review (PK) to the Supreme Court (MA), but that judicial review submission has to be waiting the examination results of police over double alleged. That certificate is on behalf of a resident and company.⁵⁵

The narration shows the continuing obstructions for adherents of HKBP Filadelfia to worshipping based on their own religion/belief such as constitutionally guaranteed by the 1945 Constitution. Those obstructions were actually occurred in dozen year without protective action from the government which appropriate with the authority and

54 “Pendirian Gereja Filadelfia Harus Mendapat Izin Warga”, the article was accessed from <http://www.metrotvnews.com/read/newsvideo/2012/05/21/151389/Pendirian-Gereja-Filadelfia-Harus-Dapat-Izin-Warga/6> on December 8, 2012

55 Arie Nugraha, “Pemkab Bekasi Akan Ajukan PK Gereja Filadelfia,” this article was accessed from <http://www.kbr68h.com/berita/nasional/27725-pemkab-bekasi-akan-ajukan-pk-gereja-filadelfia>, on December 8, 2012

responsibility to protect and to guarantee the basic rights of its residents.

These obstructions have occurred on 2000, since the community of HKBP Filadelfia's adherents was formed in Tambun, Bekasi. The obstructions were not only coming from the certain society, but also systemically supported by the state, especially by the apparatus of government and police.⁵⁶ By seeing this reality, it's hard to do not say that there're no serious actions from the government, mainly through the security apparatus which has authority to do some actions that considered necessary. The omission done by the government, gave a justification to the society or group to do unconstitutional action by violating the rights of another groups. That fact is a portrait of lack of initiative from the government to the violations on its citizens.

According the opinion of Eva Kusuma Sundari, the member of House of Representatives of Republic of Indonesia from Indonesian Democratic Party of Struggle (PDIP) faction, the case afflicted HKBP Filadelfia seems like GKI Taman Yasmin. This case could be seen from the verdict Supreme Court on IMB (construction permits) of church of HKBP Filadelfia which cannot supported by the state apparatus. The apparatus precisely joined in disobedience of law insistence of intolerant group as well.⁵⁷ For sure, this case is being the ironic fact when the government wants to protect the minority rights, including the adherents of certain religion which being the minority in Indonesia.

Through the attitude of government, HKBP Filadelfia stated that the negligence of state with the constitutions can be proved from few several things:⁵⁸ *First*, in the form of policy. The government still

56 "The State forbids the Follower of HKBP to worship", the article was accessed on <http://www.suarapembaruan.com/nasional/negara-larang-jemaat-hkbp-filadelfia-beribadah/19410>, on December 10, 2012

57 Tegar Arief Fadli, "Incident of Solo, Salihara & HKBP Filadelfia have same pattern" May 7, 2012, the article available on <http://jakarta.okezone.com/read/2012/05/07/500/624903/insiden-solo-salihara-hkbp-filadelfia-berpola-sama>; Internet; downloaded on December 18, 2012

58 An Interview between Setara and Judianto Simanjuntak (Advocacy Team and Ligitation of HKBP Fildelfia), via electronic mail, on December 14, 2012

practicing and performing the discriminative regulation and contrary to the principle of freedom of religion, such as Law 1/PNPS/1965 About the defamation of Religion. This regulation limits the number of religion that consist just 6 religions, they are: Islam, Christian, Catholic, Buddha, Hindu, and Konghucu, in addition to limiting the interpretation of religion. And other thing which discriminative from that regulation is The Joint Decree of Ministry of Religion and Ministry of Internal Affair 9 of 2006, 8 of 2006 on the Establishment of House of Worship, or oftenly mentioned as PBM (Joint Decree) of Establishment of House of Worship.

This PBM is formal legally in addition to have trouble because is not known in regulation hierarchy, also substantially/materially troubled. Because, base on the regulation (Perber Pendirian Rumah Ibadah); factually the provision to build a house of worship is very hard to be fulfilled by the minority group. One of the provision mentions that there are minimally 60 approvals, the user of that house of worship should have at least 90 members, and there is an approval from Inter-Religious Harmony Forum (FKUB), and other provisions which hard to be fulfilled by minority group. So, the questions is, if they who want to establish a house of worship but have no fulfilling the provision of having at least 90 members, how would it be? And how is if they have no at least 60 approvals from people surrounding? Then, what is the necessity of surrounding-people's approval to establish the house of worship, whereas that legally permits is just relating to the administration that approved enoughly between the group and local government only?

Second, term of omission. During this, the state often fails to prevent violence in the name of religion that made the intolerant adherent of a particular religion (the minority). This is what experienced by the followers of HKBP Filadelfia, Tambun Bekasi since January until May 2012, the incident of violence from a group of intolerant society on the followers of HKBP Filadelfia, such as disruption, threats, intimidation, and even physical violence (beating/torture).

The violence using name of religion, experienced by the followers of HKBP Filadelfia when they worship/devotion, in front of the gate of

location of the worshipping place at RT. 01 RW. 09 Dusun III, Desa Jejalen Jaya, Sub-district Tambun Utara, Regency of Bekasi, West Jawa, even that intolerant group of people (mob) took an action to stop by force the worship of followers of HKBP Filadelfia. Ironically, the apparatus (police) as the protector and guard of society in normally who came to the location, did not do anything in order to protecting the followers of HKBP Filadelfia from violences from a group of people (mob), even seemed to allow that violence.

Because of violence continued occurs to the followers of HKBP Fialdelfia from intolerant group in doing Sunday worship, on the last of May 2012, the Regent of Bekasi suggested the followers to do not worship temporarily in Desa Jejalen Jaya, Bekasi, and waiting until the situation become calm and better. The advice of that Regent accepted by the followers of HKBP Filadelfia, and finally they did not worship at Desa Jejalen Jaya started from June until October 2012.

Because of no clarity when the situation would be getting calm and better, the follower of HKBP Filadelfia on November 4, 2012 returned back to Jalan Jejalen Jaya, Tambun Bekasi to do worshipping, and continuing their activity in every Sunday, but the follower of HKBP Filadelfia again been rejected and prohibited to do their activity in their worshipping location in Desa Jejalen Jaya. This incident continually happened until November 25, 2012 on every Sunday. But, ironically the police did not do anything to crack down that intolerant group and even seemed ommitting the occurrence.

Starting on December 2 and December 10, 2012, the followers of HKBP Filadelfia did not do activity in their worshipping location in Desa Jejalen Jaya, because there is insistence and appeals from apparatus (police) to do not worship on that location. The reason is because the apparatus worried that the incident would occures, the chaos would be happened again. To avoid the possibility of chaos from intolerant group, that's why the police's statement finally obeyed by followers of HKBP Filadelfia.

3. The Pessimism of Victims

The recusal done by Mayor of Bogor about the verdict of Supreme Court to allow the followers of GKI Taman Yasmin Bogor, have been implied on the collapse of the moral and optimism of followers of HKBP Filadelfia. As the victims, the followers become pessimistic with the situation which occurred at that time, when the verdict of the court as the evidence which currently enforceable for followers of HKBP Filadelfia was also not carried out by the Regent of Bekasi. This fact showed the recusal of local government. If the government can do it by do not carrying out and obeying the verdict of court, so it can be imagined what will gonna be to the law enforcement of intolerant actions to the victims in the future.⁵⁹

Generally, HKBP judges that the situation on freedom of religion for minority group, so far have not experienced the significant progress, because the minority group still cannot enjoy their cannot be deferred rights, that is freedom to hold a particular religion, to worship, and to establish the house of worship for themselves as guaranteed and protected as in the 1945 Constitutions, Law 39 of 1999 on Human Rights, Law 12 of 2005 on the Ratification of International Covenant of Civil Rights and Politics.⁶⁰

The HKBP also stated that there are many serious things to be carried out by the Government, including how to be having a certain attitude to intolerant group. Some of steps which could be done are:⁶¹ *First*, do some effort ways to build awareness for people to be more appreciating the diversity/heterogeneity of religion, races, ethnic, groups or differences in interpretation of religion. *Second*, building a dialogue among the groups which different in their religion, races, ethnics, group, and differences in interpretation of certain religious teachings. *Third*, doing an affirmative action through the law enforcement on the intolerant society group that performed violence in the name of religion.

59 The interview of Setara and Judianto Simanjuntak (The Team of Advocacy and Litigation of HKBP Fildelfia) via email on Desember 14, 2012.

60 *Ibid.*

61 *Ibid.*

B. The Severe of Humanitarian Tragedy: Case of Shia Sampang II

The case of Shia Sampang II which mentioned in this book is a case happened on August 26, 2012. As we know, the assault on to the Shia followers in Sampang Madura had been occurred on December 2011 also. What the writer means as if the Case of Shia Sampang I. The exploration and analysis on the actions of freedom of religious/ belief in Sampang on 2011 have been presented by SETARA Institute in the report of Situation of Freedom of religious/ belief on 2011.⁶² The absence of state through the case of Shia Sampang I precisely influenced another tragedy which repeats on the same context, with the almost similar subject and object, but with the escalation and increasing level of horror that more getting worse.

1. The Intimidation and Terror before Assault

The burning of 3 (three) houses of follower of Shia in Sampang which done by the anti-shia people on December 29, 2011 ago. After that action on December 2011, some of intimidation and terror is continually perceived by the followers of Shia in Sampang.

The intimidation and terror is usually given by Sunni as the followers of Roies al-Hukama. The intimidation occurred concurrently with the enactment of Tajul Muluk as the suspect on defamation of religion. Besides that, other figure of Shia Sampang was expelled out of the Nangkrenang desa, Desa Karang Gayam, Sub-District Sampang, by the police apparatus. Ummi Hanni said, "Since Kak Tajul and all of his family leaved Karang Gayam, they (Sunni followers) become more daring to do some intimidation and terror to the followers of Shia."⁶³

Haris, the Head of Police Station Sector (Kapolsek) Omben, expelled Ummi Ummah (mother of Tajul Muluk), Ummi Kultsum

62 See Hasani and Naipospos (Eds.), 2012, *Politik Diskriminasi Rezim Susilo Bambang Yudhoyono: Kondisi Kebebasan Beragama/Berkeyakinan di Indonesia 2011*, (Jakarta: Pustaka Masyarakat Setara), page

63 Interview with, on August 31, 2012 at 8 – 9 PM.

(wife of Tajul Muluk), Ummi Hanni (sister of Tajul Muluk), Saipul (husband of Ummi Hanni), and Iklil al-Milal (brother of Tajul Muluk) on January 2, 2012. Haris said that the eviction is caused by the insistence of majority group. The figures of Shia Sampang should be staying in Malang for several months after the incident on December 29, 2011.

Along in the place of exile, those figures of Shia Sampang live in stranded life. In Malang have no income because they don't have job or other economic substitute source. Consequently, they just hope from the donation given by their relatives in Malang for continuing their lives. Once a week, police comes to check their conditions. Apparently, the police treat them such as the house arrests. Ummi Kultsum said, "When we are in the eviction period, we cannot fulfill our daily needs because we cannot work. In Malang, we always had been overseen by the police."⁶⁴



After their houses burned, being terror, intimidated, the vulnerable groups of Shia's consisting of women and children are evacuated from their hiding. (Picture: ANTARA/Saiful Bahr)

64 Interview with Ummi Kultsum, on September 17, 2012, at 5 – 6 PM

Many threats of violence on Shia followers in Sampang are continually done by the majority. They do it not only at the time of recitation, but also in every occasion. For example, when Shia followers worked together to rebuild their mosque and house of Tajul Muluk which damaged because of burning, Sunni followers threatened them to burning and destroying again what they have built. “Please rebuild your leader’s home, after you finished it, we will burn it again,” said Iklil al-Milal imitating that threat-statement.⁶⁵

The violence also experienced by the Shia women in Sampang. The anti-Shia residents cast aspersions them with impolite words. Some of them liken those women followers as filth, infidels, and Jews.⁶⁶ At one day, Zakiyah, one of Shia woman followers has been threatened will be killed from one of anti-Shia group. “The Shia woman told to eat a lot fat though. After Lebaran Day would be slaughtered,” said Zakiyah imitating the threat of one anti-Shia member.⁶⁷

Actually, the followers of Shia Sampang have reported several times about those intimidation and terror to the police apparatuses. The police usually promise to give them guaranty of safety and security. But the promise is just being the promise, it never be realized until the assault incident on August 26, 2012 occurred. The apparatus have powerless to face the pressure came from the majority groups. The intimidator and terror doer have not been arrested and they are still living as usual until this time. “Those threats, we reported it to the police, but they always said it just as a snapping, they would not be brave to do it anymore,” explained Ummi Hanni who usually called as Hanni.⁶⁸

According to Hanni, the plan of the assault on August 26, 2012 was actually being heard long time ago. She and some other Shia followers have reported to the police also about the gossip of that assault. Like the previous incident of assault, the police ignored their reports. They even considered that the followers said about something falsity.

65 Interview with Ust. Iklil Al Milal, on August 27, 2012, at 6 – 7.30 PM

66 Interview with Ummi Hanni, on August 31, 2012, at 8 – 9 PM

67 The interview with Zakiyah, on September 21, 2012, at 8 – 9 PM

68 The interview with Ummi Hanni, on August 31, 2012, at 8 – 9 PM

The role of Ulema Council in Sampang also should be considered as the supporting factor of that incident on August 26, 2012. Along 2011-2012, the Ulema aggressively deploy the hatred statements (*hate speech*) about the followers of Shia Sampang. They often instigated the society in Sampang to hate the followers of Shia. If that incitement just did for once, perhaps the hatred of Sampang to the Shia followers would be not too deep. But, factually it was done in a high intensity, so the anger of Sampang's society getting higher day by day and it was articulated through the violence.⁶⁹

According to the explanation of Muhammad Zaini, the recitations which containing of hatred statement was done every Tuesday in Dusun Nangkrenang, Desa Karang Gayam, Sub-district of Omben, Sampang Regency. Regularly, KH. Buchori Maksum, The Head of MUI branch Sampang oftenly invited to that routine recitation. In his speech, Buchori Maksum incites the society of Karang Gayam to evict the followers of Shia from their desa. "Yes, for sure, that leader was oftenly said that, if there's follower of Shia in this desa, cast them away," Zaini said while imitating the speech of Buchori Maksum.⁷⁰

2. Criminalization of Beliefs

After the assault incident on December 29, 2011 ago, the desire of majority group to do some vielences was not stopping. Now, the Ulema Council, Local Government of Sampang and police apparatures cooperates to jail Ustadz Tajul Muluk with using the accusation through the article about religious defamation. That criminalization scheme was involved Roies al-Hukama, another brother of Tajul Muluk to do as camouflage that the problem Sunni-Shia in Sampang is just about family conflict. But the fact is contrary different, the discourse of "family conflict" which improved by the State. The state actors proved to be directly involved in the scheme of this criminalization of beliefs.

69 See Press Release titled, "Kekerasan yang Tak Kunjung Padam", published by the Working Team od Advocacy on Freedom of religious/ belief (Pokja AKBB) Jatim, May 14, 2012.

70 The interview with Muhammad Zaini, on August 29, 2012, at 4 – 5 PM

These are some explanations describing of how the process of criminalization of belief to Tajul Muluk systematically and well-planned executed.⁷¹

The scheme of criminalization of Tajul Muluk begun not long after the incident on December 29, 2011, exactly on Sunday, January 1, 2012, MUI Sampang which led by KH. Bukhori Maksu issued a fatwa of religious misdirection on Tajul Muluk's thought. That fatwa seemed being forced to be issued on week (Sunday). In that fatwa also explained in detail about the points of perverted of Tajul Muluk thought. The content of that fatwa just mentioned about the teaching of Ustadz Tajul Muluk is perverted and mislead, without other further explanation about the points of what being considered as perverted.



The process of criminalization of belief continues. On Tuesday, January 3, 2012, Roies al-Hukama reported Tajul Muluk to the Police Station Resort Sampang (Polres Sampang) on charges of religious defamation. After receiving the report from Roies, the police of Sampang issued Acceptance Report Letter Number: LP/03/I/2012/Polres. Curiously, that report continued to the process of investigation by Polres Sampang, without passing the process of inspection formerly. At the same day,

71 See the Report written by Akhol Firdaus, "A Research Document: Konspirasi Menyeret Ust. Tajul Muluk ke Penjara", dalam *Syahadah: Newsletter for Religious Freedom*, edition 17/Februari/2012, page. 1-5

Polres Sampang issued a Warrant of Investigation Number: SP-Sidik/05/I/2012/Reskrim. After inspecting some of informer witness and fact witness, Polres Sampang started to arrange the Questioning Dossier (BAP). According to that dossier from police department, there are many gaffs which occurred during the inspecting process.⁷²

First, the witnesses, Roies Al-Hukama and Ummu Kalsum have a relation as sibling with Tajul Muluk as the defendant. Accordance to Criminal Code (KUHP), if the witness has cognation with the defendant, so the witness should not be sworn in. But, in this inspection process, they were being sworn by the inspector.

Second, during the process of investigation, the rapporteur is a first person who should be asked the information related to the reported allegations. But the fact happened during the periode of Notice of Inspection process, Roies Al-Hukama precisely checked after Muhammad Nur Asmawi. The informer witness, Roies Al-Hukama inspected on Tuesday, January 03, 2012; at 5 PM, and the other witness, Muhammad Nur Asmawi inspected on Tuesday, January 03, 2012; at 4 PM.

Third, based on the Notice of Inspection of Police, the witness K.H. Faidhol Mubarak has been sworn at 9.15 PM. It means that there is a grace period approximately 1 hour between the time of sworn-taking and the time of inspection-beginning.⁷³

Desire of state to justifying the belief of Tajul Muluk seems so high. The proven is, Polres Sampang delegate the investigative file of Tajul Muluk to Polda Jatim. The file delegation due to the inability of Polres Sampang in proving elements criminal of religious defamation as charged to Ust. Tajul Muluk. "They (inspector from Polres Sampang) have a trouble to proving the element of law (article), but they still

72 See The Report of Johan Avie titled "Kronologi Proses Hukum Ust. Tajul Muluk" dalam *Syahadah: Newsletter for Religious Freedom*, edition 19/April/2012, page. 3-4

73 See Press Conference titled "Keadilan atas Nama Syahwat Mayoritas" which published by *Center for Marginalized Communities Studies (CMARs)* Surabaya, April 13, 2012.

forced themselves to keep arresting Tajul, that's why the file was delegated to Polda jatim," Otman Ralibi said, the lawyer of Ust. Tajul Muluk.⁷⁴

On January 24, 2012, Polres Sampang delegated this case handling to Polda Jatim with Delegation Letter of Case Management Number: B/34/I/2012/Reskrim. Three days after, on January 27, Polda Jatim issued Task Warrant Number: SP. Sidik/47/I/2012/Ditreskrim about the commencement of the investigation process. The witness investigation by Polda Jatim was started on March 9, 2012 until March 31, 2012. In contrast to the investigation that held by Polres Sampang, in Polda Jatim there's none was being sworned.

Thursday, March 15, 2012, Polda Jatim conduct the case title (gelar perkara) related to accusations of religious blasphemy which pointed to Tajul Muluk. In this time, attended some sides, they are the envoy of High Court, member of Polres Sampang, and envoy of State Attorney Sampang. At the same time also, the inspectors from Polda Jatim issued Suspect Determination Letter of Tajul with accusation of article 156a KUHP about religious defamation, and article 335 KUHP about unpleasant act. But, its necessarily be noted that these two articles are fake.

On Thursday, April 5, 2012, the case file of Tajul was delegated by investigators in Polda Jatim to High Court of East Java to be beforehand consulted. The investigator was not really sure with their stacking file, so they should make a conspiracy beforehand with the High Court side of East Java.

Tuesday, April 10, 2012, the case file of Tajul Muluk declared to have eligible the provision (P-21) by High Court of East Java. The fixing case file (P-21) performed by High Court of East Java was controversial. The Common Criminal Case usually takes weeks, or months for just fixing the case file (P-21). But in the context of this case, curiously the High Court of East Java able to establish that this case file have fulfilling the provisions (P-21) only in two days (Thursday

74 An Interview with Otman Railibi, May 13, 2012

and Monday – because Friday, Saturday, Monday is weekend), since that case be submitted to the High Court of East Java.

Thursday, April 12, 2012, the High Court of East Java delegated the case file of Tajul Muluk to State Attorney Sampang. Simultaneously with devolution of that case file, the State Attorney of Sampang issued Arrest Warrant Number: Print. 293/O.5.36/Ep.1/04/2012 to Ust. Tajul Muluk. In the same day also, Ust. Tajul Muluk be arrested by State Attorney of Sampang. It was so tragic, there is a citizen that being disciminalized just because of having different belief.

Next, on April 16, 2012, the State Attorney of Sampang through the Delegation Letter Case of Ordinary Examination Number: 67/O.5.36/Ep.1/04/2012, submitted the case file of Ust. Tajul Muluk to District Court of Sampang. At the same day, the Judge of District Court of Sampang issued the Determination Letter of Panel Judges on the Session Day Number: 69/Pen.Pid/2012/PN.Spg. The District Court of Sampang established that the proceeding would be begun on Tuesday, April 24, 2012. The legal proceeding of this case seems more faster than usual. Starting from the file validation process (P-21) by State Attorney of Sampang until the trial day which only around 6 days spending days (April 10-April 16, 2012).⁷⁵

The apparatus of law enforcement in Indonesia seems came late (involved) in the pressure of majority group. The Ust. Tajul Muluk finally became the defendant and brought to the trial with the accusation of religious defamation. On Tuesday, April 24, 2012, the panel of Judge opened the first trial of Ust. Tajul Muluk on District court of Sampang with the trial schedule is the indictment reading. In the letter of indictment, the Public Prosecutors (JPU) indicted Ust. Tajul Muluk with indictment of Article 156a KUHP jo. Article 335 KUHP by the threat of punishment 5 years jailed.

The secondly trial held on Tuesday, May 1, 2012. At the first time,

75 See Johan Avie's report under the title "Kronologi Proses Hukum Ust. Tajul Muluk" din *Syahadah: Newsletter for Religious Freedom*, 19/April/2012 edition, p. 3-4

that day's trial agenda is Exception reading by the head of Lawyers team. The Lawyers Team submitted the petition of trial agenda delay. The reason is the Lawyers Team has just accepted Questioning Dossier (BAP) and Indictment Warrant at that same time. "We asked that the delivery of our exception be postponed because we aren't ready yet," said Otman Ralibi to Purnomo Amin Tjahjo, the head of Judge Panel. That petition was agreed by the Judge. Finally, the trial should be postponed for one (1) week. The next trial agenda is Exception reading by the Lawyers Team of the defendant.

The continuing trial held on May 8, 2012. The agenda of this third trial is the reading of memorandum of objections by lawyer team of Tajul Muluk. The preparation of that memorandum done by the lawyer to argue the Indictment Warrant which red by Public Prosecutor (JPU) on the first time trial. The lawyer team of Ust. Tajul Muluk considered that the Indictment Warrant that submitted by Public Prosecutor was vague and premature.

The fifth trial held on May 22, 2012 with the agenda of interlocutory decision which would be red by panel of judge. The Interlocutory Decision Number: 69/Pid.B/2012/PN.Spg, alternately red by panel of judge. Attending the trial is Junior Attorney (Jaksa Muda) Sucipto, SH. MH and Achmad Fauzan, SH. And the lawyer team of the defendant represented by Otman Ralibi, Asfinawati, and Habib Abdullah. In that interlocutory decision, the panel of judge refused the exception submitted by the lawyer team of Tajul Muluk. "We are so disappointed to the Panel of Judge who heed the imperfection of the indictment warrant given by Public Prosecutor," Asfinawati said, one of lawyer team's members of Ust. Tajul Muluk.

The sixth trial held on May 30, 2012 with the agenda of witness inspection by Public Prosecutor (JPU). JPU submitted seven persons of incriminating witnesses of Tajul Muluk. Those seven witnesses are: Roies Al Hukama, Mohamad Nur Asmawi, Moch Hasyim, Khozairi, Punari, Ummu Kulsum, Sanima. Just as a notice, Roies Al Hukama and Ummu Kulsum are siblings of Tajul Muluk. After that inspection, the testimony of those witnesses was not quite powerful to indict Tajul Muluk convicted.

The proceeding which held on June 13, 2012 with the agenda was same as the previous trial, the witness inspection by Public Prosecutors. JPU submitted two witnesses which incriminating Tajul Muluk. Those two witnesses are: Muna'i and Kyai Halim Toha (The Religion Ministry Apparatus of Sampang). Similar to the witness in the previous trial, in this trial also, those two witnesses morely talking about their opinions than explaining about the facts happened. The seventh trial held on June 15, 2012, with the agenda of hearing the information from experts and another person of Public Prosecutors. If looking back to the Notice of Investigation (Berkas Acara Penyidikan), the Public Prosecutors should presented one of Criminal Expert, but at that trial, the expert Prof. Nur Basuki (Lecturer of Law Faculty of Airlangga University) was disable to come with untalked reason. Besides the witness and criminal experts Public Prosecutors, this agenda also presented two religious experts (ulema): [1] Bukhari Ma'shsum (The Head of MUI Sampang); [2] Abd Halim Soebahar (Lecturer of STAIN and the Head of MUI Jember) to give some information in the proceedings. This eighth trial was also characterized by gaffes. *First*, the head of judge panel acceded addition of religious experts which submitted by Public Prosecutors on five minutes before the trial begun. The additional experts is Abdusshomad Bukhari (Chief of East Java MUI) and the more inelegant is the presiding judge allowed a religious expert named Ahmad Bin Zein Alkaf who just graduated from *Madrasah Tsanawiyah* (MTs) or Junior High School. Those two experts also not listed in BAP.⁷⁶

Continued trial of religion defamation case held on June 20, 2012. This is the ninth trial. The trial agenda was inspection of factual witness that alleviating (*Ade-Charge*). The trial presenting witnesses: Muhyin, Zaini, Iklil Al-Milal, Ummu Hanik, and Ummah. Excepting Ummah (mother of Tajul Muluk), all of presented witnesses are Shia followers. That trial runs for five hours, starting on 10.30 a.m. and finished on 05.00 p.m. According to those informations which given

76 The whole process of this trial recorded in the report of "Laporan Sidang Kriminalisasi Keyakinan Ust. Tajul Muluk: Potret Konyol Sidang Pidana Penodaan Agama (1)", *Syahadah: Newsletter for Religious Freedom*, edition 21/ June /2012, page. 1-5.

by the witnesses, all of suspicions that indicted by Public Prosecutors could not be proven. In indictment, Tajul Muluk was being indicted to spread the main thoughts, such as: [1] blaming that al-Qur'an today is not original anymore; [2] To add the lafadz of Dua Kalimat Syahadat; [3] to curse the companions and wife of the Prophet; [4] have to be lying (*taqiyah*); [5] about the amount of Islamic tenet/ *Rukun Iman* and the five pillars of Islam/ *Rukun Islam* which is different; [6] the faith of Islamic Leader (imam); [7] suicide is allowed.

The tenth continued trial of religious defamation case was held on June 22, 2012. On this tenth proceeding, the Lawyer team presented twelve witnesses *ade charge* and one of religious experts, namely Zainal Abidin Bagir, Ph.D (Director CRCS UGM Yogyakarta). Those twelve temporary witnesses are: [1] Muhlisin; [2] Jumali; [3] Niton; [4] Mat Surah; [5] Bujadin; [6] Bukaman; [7] Ma'ruf; [8] Sunadi; [9] Busa'I; [10] Mat Siri; [11] Zulhan; [12] Zumaidah. From those twelve witnesses, just Zulhan understands about Sunni. The trial six hours took time, starting on 10.30 a.m. and finished on 05.00 p.m.

The continued trial of that religious defamation case held on June 24, 2012. The trial agenda was hearing the explanation from two (2) religious experts: [1] Prof Zainun Kamal (Lecturer of UIN Syarif Hidayatullah Jakarta); [2] Dr. Umar Shahab, and one (1) Criminal Experts: Dr. Solahudin (Lecturer of Bhayangkara University of Surabaya).

On Wednesday, July 4, 2012, the continued trial of case of Ust. Tajul Muluk was held again. The agenda of the trial on this chance is reading the Warrant by the Public Prosecutors (JPU). It needs around 1 hour for the prosecutors to read 52 sheets of warrant. The prosecutors in his warrant said that the actions performed by Ust. Tajul Muluk have fulfilling the elements of article 156a KUHP. The decision of JPU was based on the informations from the witnesses and the experts during the proceedings. Besides that, JPU also submitted many kinds of evidences, such as: Fatwa MUI of Sampang, the Statement of PCNU Sampang, 1 piece of CD recording Tajul Muluk's voice, and 1 book of Shia thought. Based on those evidences, the prosecutors punished Ust. Tajul Muluk by 4 years jailed. That prosecute seemed imposed because

there's none of facts in front of the proceedings that can proving Ust. Tajul Muluk found guilty to do religious defamation.

On July 9, 2012, the District Court of Sampang held the hearing case of criminalization of belief on Tajul Muluk. The hearing agenda is reading the Pleddoi that was composed by the defendant and his lawyer team. Both of defendant and his lawyer team would read their own pleddoi.

This time trial was being the longest time one during the case process. Starting on 11.00 a.m., this trial was finished on 09.00 p.m. At least the pleddoi which as thick as 239 pages that arranged by the lawyer team, was red on this trial. Coupled with 23 sheets of pleddoi which also also arranged by Ust. Tajul Muluk. The thick pleddoi made the trial spent for so long time.

The destiny of Ust. Tajul Muluk determined in the court on July 12, 2012, when the verdict of the judge about the case of criminalization of belief on Ust. Tajul Muluk was being imposed. The verdict of Judge was composed without Pleddoi consideration which should be submitted by lawyer team of defendant. Proven, the judge just needed 3 days to compose the verdict. Whereas, that pleddoi consisting arounds 250 pages. Through the time allocation that just given 3 days, the judge ignored that pleddoi for sure.⁷⁷

Those third judges red the verdict alternately. Ust. Tajul Muluk with the court spectators was waiting the verdict red patiently. Like usual, the Ust. Tajul Muluk with comes to the court while holding the holy al-Quran. In the verdict, panel of judge considered that the deed of defendant that has been disturbing the surrounding people, especially Moslems in Omben and Karang Penang sub-districts of Sampang.⁷⁸ The reason determined by the judges as the aggravating

77 See report "Laporan Sidang Kriminalisasi Keyakinan Ust. Tajul Muluk: Potret Konyol Sidang Pidana Penodaaan Agama (2)", *Syahadah: Newsletter for Religious Freedom*, 22/July/2012, p. 1-5.

78 See *pers release in the title* "Putusan Tajulu Muluk: Keadilan Mayoritas" oleh Kelompok Kerja Advokasi Kebebasan Beragama/Beryakinan (Pokja AKBB) Jatim, 13 July 2012.

factors on defendant.

Without according the facts on the court, panel of judges mainly said:

- Punishing the defendant, Tajul Muluk alias H. Ali Murtadha was legally proven wrong and convincing have done the criminal “Doing the action that is defamation of Islam.”
- Punishing the defendant by jail for 2 (two) years.
- Determining the period of detention which has been passed by defendant wholly deductible from punishment.
- Determining defendant to keep staying in the jail.
- Commanding that the evidences were staying attached on the case file.
- Imposing the court fee to the defendant of Rp. 5000,- (Five Thousand Rupiahs).

Through that verdict was punished on Ust. Tajul Muluk, the legal adviser team of defendant raise objections. They thought that verdict was ignoring some of truths. Then, the legal adviser team would fill an appeal to High Court of East Java. As though as not to be outdone by a team of legal advisers, the public prosecutor also filled an appeal on that punishment. For the public prosecutors, that verdict considered not too light.

The punishment of Judges of State Court of Sampang in the religious defamation case with defendant is Tajul Muluk, factually was not differ from what have predicted before. The Panel of Judges said that Tajul Muluk guilty on religious defamation and punished him 2 years jailed with jail term cut. This verdict ignores some facts and data told that Tajul Muluk is a victim of conspiracy, speech hatred, and forcing, attacking, house burning and ended with criminalized on himself.

Surprisingly, the judge bravely decides that Tajul Muluk have been proven teaching misdirection al-Quran (not-authentic). In fact all the evidence presented by witnesses incriminating associated with it, all of those evidences feasible to be ignored because the witnesses

themselves have never seen or heard that accusation. The judge dares to beat around 7 witnesses from Tajul Muluk versus 2 witnesses (M. Nur Asmawi and Munai) with 2 not-sworn witnesses brought by Public Prosecutors. The verdict argumentation of judge is totally not logical because choosing 2 witnesses which brought by the prosecutors and rejecting 7 witnesses which brought by Tajul Muluk. That rejection was due to the suspicion of *taqiyah* different.

*Taqiyah*⁷⁹ which alleged by Public Prosecutors as meant as oblige to lie. Strangely, the judge in his previous consideration said that *taqiyah* is not an obligation to lie but it just a permissibility to do not say something truth in the condition of threatened live, forced, and public interest. According the verdict to the *taqiyah* also means that the Judge judging the heartstrings of witnesses because there's no indication of lies founded on those witnesses.

Factually, the decision of judge, supporting the majority pressured logics which being a value which should be followed by the minority. In the too openly consideration, the judge said "the defendant taught the unusual/unordinary thought which finally supporting the community unrest". The legal consideration is not only slander, but also legal consideration is clearly trouble. The action of Tajul Muluk is measured by using the society's opinion surrounding him and because of the majority's dislike on that dakwah activity and his thought, so that this argumentation is enough considered to be used as the prove to punish that figur.

3. The Chronology of Assault

Sunday, August 26, 2012 became the proof the weakness of State among the majority. The residents of anti-Shia vent their emotions

79 *Taqiyah* etimologically means pretending. Ibnu Abbas RA. *Taqiyah* means to say (something not true) by the oral, but his heart filled by the faith, and some of ulema interpret that *taqiyah* as to keep live (soul) and property from the rival by showing of the lying things in front of the without convincing it in his heart (white lying). Read <http://www.artikelislami.com/2011/07/taqiyah-antara-ahli-sunnah-dan-Shiah.html#ixzz2KldWGJIC>

to Shia followers. The assault on Shia followers in Sampang exactly occurred one week after Eid (*Lebaran*). Still in the spirit of Eid, hundred of Shia followers in Sampang sorrow because of loosing their homes. They were pelted by stones, beaten, and so should be expelled from their own desa. And, the death of one of their community make them became more sorrow.

The assault on Sunday was never been predicted by Shia followers in Omben, Sampang. Nearly before the assault happened, the followers of Shia even did their regular activities like usual. In that morning, Sunday, August 26, 2012, the Shia followers in desa of Nangkrenang, Karang Gayam, Omben sub-district, Sampang, planned to deliver 20 children of them to go to school in Yayasan Pesantren Islam (YAPI).

They rent 2 minibuses (L-300) to drop their children. Those 20 children should be dropped to two different destinations. The first car (minibus), containing 10 children and some of adults, including Nurcholis (Shia followers of Sampang) headed to Bangil sub-district, Pasuruan on 06.30 a.m., and the second car (minibus) containing 10 children and parents, including Umi Hanni (sister of Tajul Muluk) and Niton (one of Shia follower) headed to Malang on 08.30 a.m.

Around 06.30 a.m., the first car carrying several children Nurcholis and Shia followers headed to Bangil, Pasuruan, unhindered. "When I departed, the mass haven't converge yet, the situation was still quite because too early morning," said Nurcholis.⁸⁰

At 08.30 a.m., before the second car departure, tens of mass converge in house of Roies al-Hukama. At that time, Niton commanded to rent a car (minibus) on highway, Ummi Hanni, the sister of Tajul Muluk, accompanied children of Shia. He together with 10 children went to the rental car's parking place on foot. According to Niton's said, when he wanted to dismiss that rental car, the mass of anti-Shia have started to look around the highway. And when Ummi Hanni with the children of Shia took on the rental car, mass started to come close them.

The mass shouted to ask Niton and Hanni to cancel their departure

80 Interview with Nurcholis, August 27, 2012 at 09.00 – 10.00 a.m.

to Malang. “Stop! Go back!!!! You are heresy!” said Niton imitating the statement of attackers.⁸¹ And because of the fear to be attacking by mass, Ummi Hanni commands the driver to immediately go. The car was finally goes so fast, the romp action occurred at the time. Amid the journey, Ummi Hanni saw that around 10 motorcycles run after our car,” she said.⁸²

After that car leaved for around 1 km, mass pelting the car until its glass broke out. Besides that, the mass also hit the left side of the car, pursuit and screaming for a stop. The driver was scare at that time and he finally followed what was asked by the mass, he stopped the car suddently. The car was carrying the Shia followers forced to get back to the house of Ust.Tajul Muluk and cancel their departure.

With was being forced, Ummi Hanni cancelled her departure and get back to the house of Tajul Muluk. Under the sweltering sun, and without wearing the sandals, Ummi Hanni walked to the house of Ust. Tajul Muluk. Along the way home, mass walked behind her and the children guarded with. While walking, they insulting Ummi Hanni then shouthing, “misguided woman”, let’s we rape her together!”⁸³

When she arrived in the house of Ust.Tajul Muluk, Ummi Hanni saw approximately 500 people gathered around her. “The distance of the mass to the house of Tajul Muluk just 15 metres,” Hanni said. Some of them could be known by hanni as the residents of Desa Karang Gayam, but most of them are not the residents of Desa Karang gayam.

Immediately, the attackers started pelting the followers of Shia Sampang with stones. Without any protection from polices, the victims defend themselves by pelting back the stones to the mass. But, because of their numbers was not balanced, the victims tried to avoid the stones by taking cover behind the house of Tajul Muluk. The incident of stone pelting occurred for around 1 hour. “That pelting incident have 3

81 Interview with Nitor, August 27, 2012, at 10.00 – 12.00 a.m

82 Interview with Ummi Hanni, August 31, 2012, at 08.00 – 09.00 p.m.

83 Interview with Ummi Hanni, August 31, 2012, at 08.00 – 09.00 p.m.

sessions brother, the first and second session occurred in house of Ust. Tajul Muluk, and the third session occurred in the house of Mr.Nur Halimah,” Mahrus explained.

Consequently, some of women and children were injured because of the stones pelted by the attackers. Even, the head Mrs.Ummah (mother of Tajul Muluk) bleeding because of the throwing stones. She was beaten by some of mass, even she was tried to be covered by Hanni (sister of Tajul Muluk). Mrs.Ummah finally collapses and must be rescued to SDN 4 Karang Gayam.

According to the statements of Mrs.Ummah, the member of polices which seen in the field were just 4 persons. They could not do more, and just asked the Shia followers to step back. Constantly urged by the attackers, the victims finally stepped back and went to house of Nur halimah. When the followers of Shia stepped back to that place, mass started to burn Tajul Muluk’s house.⁸⁴

At 10.45 AM, the mass burnt the house of Tajul Muluk by using Molotov bomb. “Indeed, they threw the gasoline to the back roof of Kyai Tajul’s house,” Mahrus said, one of the victims who directly showed the incident. Because of the throwing stones, some of the victims run to another houses of Shia followers which located in Dusun Gading Laok, Desa Blu’uran, Sub-dictrict of Karang Penang. After arriving in Dusun Gading Laok, they were surprised to see that the houses of their relatives there had burnt by mass. Apparently, the action of burning those two desas was done in the same time.

At 11 a.m., when the pelting incident occurred in front of the house of Nur Halimah, one of the followers of Shia Sampang named Muhammad Hasyim alias Hamamah approached the attackers to make peace. At that time, Hamamh shouted, “peace-peace!”, but poor he was hit by the stone by the attackers. He fell to the ground not far from the position of the anti-Shia mass. While it happened, there were three men come on to Hamamah. One of them was stabbing Hamamah’s stomach using celurit (traditional weapon of Madura). The celurit

84 Interview with Ummah, September 4, at 05.00 p.m.

swipe wound on his stomach was finally induced him to die.

To see one of the relatives assaulted by mass, Muhammad Thohir runs to the crowd to help Hamamah. But unlucky, he also being the victim of machete slashes of the mass. Thohir was serious injured because of 20 cm wounds on his back. Because of the fear to be killed, thousands of Shia followers hide in the houses of their neighbours, some were running to the top of the mountain, and the others were taking cover in the building of SDN 4 Karang Gayam.

At 11.30 a.m. – 05.00 p.m. the mass begun to burn the houses of Shia followers one by one. They burnt some of cows, motorcycles, and another vehicle. Strangely, when the incident occurred, mass cannot distinguish which is the house of the followers and which is not. Evidently, a resident of Dusun Nangkrenang named Sukri became the guide of the mass to make them not getting misplace. Until now, Sukri includes in the Police Most-Wanted List (DPO).

Based on the explanation of Ust.Iklil al-Millal, the anti-Shia citizen burnt around 48 houses of Shia. Besides the houses, there were burning the cages and house of worship (small mosque). In that August 29, 2012, the followers of Shia burnt the farm of Mr.Thohir. That burnt farm located on the street which passed by the mass to get the house of Ust.Tajul Muluk. “The 100 m² farm also was burnt together with the plants inside,” said Moh.Zaini.⁸⁵

4. Victims Refusing Relocation

After the incident on August 26, 2012, the minority groups of Shia in Sampang should lose their homes. There’s no guaranty of the state to the victims, by was forced they had to evacuate themselves into Sports Building (GOR) of Sampang city. The place of refugee was not be called feasible, their needs on eat and drink until now still come

85 The overall of assault chronology on August 26, 2012 can be seen in the report of Johan Avie and Khoirul Mustamir “Laporan Eksklusif Penyerangan terhadap Jamaah Shiah 26 Agustus 2012: Tragedi Syawal Berdarah” di *Syahadah: Newsletter for Religious Freedom* edition on 24/September/2012.

late. Besides that, they should withstand the sense of longing on their homeland.

Since the minority group in Sampang was in the place of refugee, the issue about relocation sounded again. The District Government insisted to relocate the minority group of Shia from Sampang, Madura. In contrary, the Provincial Government of East Java stated that the minority group of Shia would not be relocated out from their desa. The feud two state institutions are indeed heavily circulated in the media, but none of the victim's sound was reported.

Last week, the writer intervied some of victims in GOR Sampang related to the discourse of relocation. Iklil Al-Milal, brother of Tajul Muluk said that none of the victims wanted to be relocated from their homeland. Their desires and demands of them for todays is just going back to their own homes, rebuilted the new one by the government, and got the security guaranteed by the state. For sure, the relocation which sounded by the state was not right targeted. *First*, the state should be relocating the attackers of Sampang, not the victims which being victimized again. *Second*, relocation will not solve the problems, because the victims could be uprooted from their cultural root. *Third*, the relocation is a form of diability of the state in guaranteeing the security for the minority group of Shia in Sampang. *Fourth*, by relocating, so the country will abdicate responsibility to the incident occurred on August 26, 2012.



Shia refugees in Sampang Madura Sports Building. Overcrowded no lights and clean water, living in bad condition (source: www.merdeka.com)

The completion that should be applied in this case is attempts of reconciliation and law enforcement. Surely those attempts of reconciliation will take a long time, and involved many related stakeholders. But it is not impossible that the reconciliation could be done as the way out of this problem. There are some reasons why the reconciliation and law enforcement can be used to solving way on this case. *First*, the reconciliation will not violate the victim's right to stay in their homeland. *Second*, the reconciliation can strengthen the relation between anti-Shia group and Shia followers which is not facilitated. *Third*, the reconciliation will not uproot the victims from their cultural roots. *Fourth*, the law enforcement through the perpetrators disseminator of hate speech and assault could make people to think before spreading the hate speech on the minority Shia in Sampang. If the state took a serious to solve the problem in Sampang, so the reconciliation and law enforcement become the effective way to be used.

C. Violence (Again) Happened on the Ahmadiyah Congregations of West Java

If traced the case of violation on freedom of religious/ belief in West Java that leads to anarchy such as the assault, burning, eviction and worship banning of Ahmadiyah followers, cannot be separated from the omission which performed by the state likes the previous incident occurred in Parung, Bogor, West Java. The violence which occurred after seemed like the *copypaste* of that incident. It is not excessive to be predicated that Bogor and Bekasi as “the Lighthouse of Intolerant” in West Java. Those discrimination and violence through the minority groups, especially the Ahmadiyah community and Christians opened for the first time in Bogor.

The relation among people and Ahmadiyah community in Bogor run condusively and have nothing problem before. But, after assault of Al-Mubarok campus, Parung, Bogor, on July 9, 2005, the community of Ahmadiyah became “sequestered” from social interaction. They are not only being excommunicated in social interaction, they are loosing their

sense of comfort and safety because of incidents of assault, massacres, and obstruction of them to express their religious belief which could be experienced and occurred anytime. The omission action which shown by the apparatuses, give some opportunities of intolerant people to do some discrimination on Ahmadiyah community. Proven after the attack on Ahmadiyah center on the campus of Al-Mubarak, Parung Bogor, assault, burning action, and other acts of anarchy experienced Ahmadiyah community in Tasikmalaya, Garut, Kuningan, Jakarta, Banjar, Cianjur and other areas in West Java. Even on 2012, the desa of Ahmadiyah in Cisalada Bogor, became the subjected of combustion done by intolerant group.

1. Combustion of Kampong Ahmadiyah

The incident befall the settlement and member of Ahmadiyah in Cisalada, Ciampea Udik, Bogor, happened on Friday, July 13, 2012, when a group of mass attacking by throwing 5 houses of Ahmadiyah congregations. In that incident, 4 followers of Ahmadiyah were injured.

The chronology of this intolerant case on Ahmadiyah congregations in Cisalada, Bogor on July 13, 2012, namely:

At 09.30 a.m.:

A group of journalists from Dutch, they are Yulivia (Indonesian), Thimoty Michael Deagle, Michael Gulame M Mass, Marolent, and Patrick went to Cisalada, Desa Ciampea Udik, Kecamatan Ciampea, Kabupaten Bogor. They used two cars wick driven to shoot about the religion and culture reportoar in Cisalada village as a docemnter film. According to their plan, they will stay until Monday, July 16, 2012.⁸⁶

When arrived in kampong Kebon Kopi, which being the entering access to Cisalada, they were interrogated by local residents. "Where

86 See "Kronologi Penyerangan terhadap Ahmadiyah Cisalada", http://mediaindonesia.com/index.php/read/2012/07/17/333697/38/5/Kronologi_Penyerangan_Terhadap_Ahmadiyah_Cisalada, accessed on December 12, 2012.

do you go? What do you wanna do? Do you have a permit?” asked the resident. “We want to go to Cisalada. We have been permitted by Mr. Mubarik,” answered the troupe. That troupe mentioned Mubarik Ahmad, the public relation of Jemaat Ahmadiyah Indonesia (Central Board of JAI). The resident thought that the mentioned name of Mubarik is the leader of Ahmadiyah branch Cisalada. After arriving in Cisalada, they accompanied by Mubarik, the leader of Ahmadiyah Cisalada, to meet the Desa Head to get a permit. Then the Desa Head suggested them to get permit from Tripika (Koramil and Polsek). Mubarik could not accompany because he want to Friday praying. After finishing their pray, that troupe have return back and said that they have asked the permit to Tripika. “We got five permits, they are from: Headan, Sub-district Head, local government, Police of Ciampea and Koramil of Ciampea,” said the testimony of Michael Gulame M Mass.⁸⁷

But, before they have not gotten back to the village head (*Kepala Desa*) in order to inform that they got the permit already, the assault incident. The situation rather heated when the residents asked them about the lisenca that owned by them. They were two polices and soldiers (local military command/ *Koramil*) who know about that condition because they did Friday praying in Kebon Kopi.

At 01.30 p.m.:

The attack occurred done by hundreds of mass which known as the residents of surrounding desa, including the residents of Kebon Kopi. They were throwing stones to Ahmadiyah congregations and some of them bringing the beater. The residents of Cisalada said that they attacked the troupe of journalist because they thought that the troupe didn't follow applicable licensing process. To anticipate being the target of mass tantrum, the troupe of journalist leaved the place through the rear access, toward Cimanggu. The attack happened for around half hour. When the assault happened, 2 (two) polices and 2

87 See http://www.bbc.co.uk/indonesia/berita_indonesia/2012/07/120716_ahmadiyah-cisalada.shtml, accessed on December 12, 2012.

(two) local military command/ *Koramil* were on the spot.

The group of assault group blocked by the youngling of Ahmadiyah Cislada who just finished Jumat praying because Mubarik and Engkong Zaenudin who were being the persons, to facing the mass in order to explain about the licensing process of that foreigner journalist have been beaten and pelted by the stones. The mass that was blocked, finally retreat.

When Mubarik will to explain to the person who stays in the Kepala Desa office, the people thought that he wanted to resist. “*Naon sia?! Rek ngalawan??*” (What’s the matter? Do you want to fight me?!) The attitude of the Leader of Ahmadiyah followers, stir the anger of people who were ready and swarm to do anarchist actions.

As the results of the assault, 5 houses are damaged pelted by stones. One of those damaged houses is Euis’ house, so hard damaged because pelted by stones and the furniture with its curtain burnt. 5 of damaged houses located in front of the desa of Cislada. When the people were retreat, there was some of people tried to attack from side access, farm, it’s around 4-6 persons by carrying the pellet gun.

4 of Ahmadiyah congregations were injured because of throwing stones, they are: Aji, Budi, Engkong Zaenudin and Safari. Aji should be evacuated to the Luwiliang hospital to get medical help. At the night, the family asked the police help carrying the victims to the hospital. The police asked 100.000 (one hundreds thousand rupiah) for the reason to buying the gasoline. In the hospital, Aji on the upper of his eyes should be treated because suffering torn injured.⁸⁸

When still in the atmosphere of tense and trauma of intimidation, police thrusts a statement letter of willingness of case termination to Ahmadiyah congregations. “The residents asked to write a statement letter which asking apologize because of Michael Mass inviting and case closed,” said Firdaus Mubarik. One of the points in that letter is

88 See “Kronologi Penyerangan terhadap Ahmadiyah Cislada,” [http://m. mediaindonesia.com/index.php/read/2012/07/17/333697/38/5/Kronologi_Penyerangan_Terhadap_Ahmadiyah_Cislada](http://mediaindonesia.com/index.php/read/2012/07/17/333697/38/5/Kronologi_Penyerangan_Terhadap_Ahmadiyah_Cislada), accessed on December 14, 2012.

if there's a guess or journalist would get in to Cisalada, should have a liscence from local government, from Kepala Desa Ciampea Udik. "Furthermore, every reportoar about Cisalada could be considered as the provocation because of having no permission from local government so that the attack would be considered as the reasonable result," said Firdaus Mubarik, the spokesman of central board of Ahmadiyah congregations, imitate the statement.⁸⁹

Reportedly also, among the attackers there are suffering fracture, Endang (40 years old), the resident of Kampung Pasar Selasa RT 4/1 Ciampea village. Not known for sure due to his leg fracture. According to the information from Cisalada resident that incident is probably dues to the throwing stone. At 8 PM, there are 3 police cars came. Around twelve o'clock, Brimob unit came. And on this afternoon, there were 6 unit Mobile Brigade/ *Brimob* cars and more than 10 police cars.

A half hour since the assault occurrence, Polres Bogor provide the security by putting the personnel to the location in order to keep the house and desa of Ahmadiyah community stay secure and to anticipate the continued attack and defacement. After the assault on the community of Ahmadiyah, the police also provide the security. The situation in the location became conducive again in the late afternoon.⁹⁰

The police also doing the investigation to ask the information of purpose coming of those four foreigner journalists was allegedly become the triggers of eight hours-assault. After being deemed sufficient, the police finally let those journalists go. Besides that, the police also stop the legal proceedings after issued statement letter about the case revocation from Ahmadiyah community.⁹¹

89 See http://www.bbc.co.uk/indonesia/berita_indonesia/2012/07/120716_ahmadi-cisalada.shtml, accessed on December 12, 2012.

90 See "Penduduk Sekitar Masjid Ahmadiyah Ketakutan," <http://www.tempo.co/read/news/2012/04/21/058398579/Penduduk-Sekitar-Masjid-Ahmadiyah-Ketakutan>, accessed on December 12, 2012

91 See "Empat Wartawan Peliput Ahmadiyah dari Belanda," <http://www.tempo.co/read/news/2012/07/14/173417041/Empat-Wartawan-Peliput-Ahmadiyah-dari-Belanda> and http://www.bbc.co.uk/indonesia/berita_indonesia/2012/07/120716_



High tension. Hundreds of policeman from Bogor Police Resort and Kedunghalang mobile brigade (brimob) just arrived after the intolerant group burned the Ahmadiyah village in Cisalada, Ciampeaudik, Ciampea district, Bogor. (Picture: <http://www.radar-bogor.co.id>)

The Regent of Bogor, Rahmat Yasin, assess that the assault incident in kampong of Ahmadiyah community in Cisalada because of certain individual provocation which deliberately creating the clashes among the residents. Besides that, the regent also ask the Ahmadiyah followers not doing their religious activities which potentially forcing the people's emotions. To anticipate the similar incident, the regent strictly states to all of social element to obey the Joint Decree of Three Ministers and Governor's Regulation (Pergub) of West Java number 12/2011 about the disallowance of Ahmadiyah.⁹²

Two days later, Sunday, July 14, 2012, the house of Haji Encep Sukarman was destroyed. He is the member of Ahmadiyah branch Cisalada but his house located in kampong Ciangsana, Desa Tapos I, Sub-district Tenjolaya, approximately 10 km from Cisalada. The

ahmadicisalada.shtml, both were accessed on December 11, 2012

92 See "Serangan Kampung Ahmadiyah Terkait Jurnalis Asing", <http://www.tempo.co/read/news/2012/07/14/063416960/Serangan-Kampung-Ahmadiyah-Terkait-Jurnalis-Asing>, accessed on December 12, 2012

residents surrounding the kampong Ciangsana said could not identify the attackers. And so do the owner of shop beside the home of Sukarman. He said that he did not know who and where are the attackers coming from because since the afternoon the shop was closed.

2. The Virus of Slaughters of Ahmadiyah Ideology; From Bogor to other Regions.

Along 2012, the graphic of intolerant action which befall the Ahmadiyah congregations, such as the assault, combustion, the removal interaction-access with outsider, disallowance of Haji, forcement to change the religion, neglect the access to make identity card (KTP) and many other intimidation modus in West Java, are still showing high level. The virus of 'ideology slaughters' of Ahmadiyah as if spreads out to all of Regency/City in West Java.

Some kinds of anarchy actions and discrimination which are continually befall on the congregations of Ahmadiyah, concludingly, due to four factors. *First*, the lack of rule issued by the government which is intended to protect the citizen from any various threats. So, this condition then becomes the leeway of intolerant group to show their power. *Second*, the regional government have no enough energy to face the pressure from certain group which forching them to issue the discriminative policy and harming their people by the reason of diversity. *Third*, the political national values disorientation. As it was formulated by founding fathers of this nation and state, the national politics require that the national interest should be positioned more higher that the other interests. But in the case of Ahmadiyah, clearly seems that the exclusive and sectarian interest become the mover. And *fourth*, the utilization of identity politization of promirdial and religion to jack the level of alignments and constituent option and changed to be effective in order to stifle the political rivals.⁹³

93 Ismail Hasani & Bonar Tigor Naipospos (ed), "Ahmadiyah Saudara Sebangsa" in *Ahmadiyah dan Keindonesiaan Kita* (Jakarta: SETARA Institute, 2011), p. 138-139.

3. Intimidation, Sealing, and Assault

Intolerant action in *soft and physical violence* in West Java runs massively in several regency/city. Some of incident recorded by SETARA Institute through the utilizing the primary and secondary data, such as:

a. Cianjur

In Regency of Cianjur, the Mosque of Nur Hidayah owned by Ahmadiyah in Kampong Cisaat, Desa Cipeuyeum sub-district Haurwangi invaded by around 200 peoples on Friday, February 2012. That invasion triggered by disallowance of surrounding community in accepting the Ahmadiyah community which uses the mosque as the house of worship.

This following motif description, act of vandalism, and response of apparatus related to the intolerant case befalls Ahmadiyah congregations in Cianjur:

Friday, February 17, 2012:

The Nur Hidayah mosque which used as the house of worship by Ahmadiyah congregations, located in Jalan Raya Ciranjang kampong Cisaat RT/RW 01/08 Desa Cipeuyem Sub-district Haurwangi Regent Cianjur destroyed a group of mass which around 200 people.

The vandalism action which done by the surrounding community in the mosque complex were triggered by Ahmadiyah congregations' dissatisfaction which using the mosque for performing their religious activities.

“We have repeatedly admonish and give the warning to the leader of Ahmadiyah to do not any religious activities, evnthough Friday praying. But they always violate it,” said Asep, one of residents which justified as the defendant of Ahmadiyah mosque destruction in Cianjur.⁹⁴

94 See “Warga Cianjur Jadi Tersangka Perusakan Rumah Ibadah”, <http://www.republika.co.id/berita/regional/jawa-barat/12/02/21/lzqouf-20-warga-cianjur-jadi-tersangka-perusakan-rumah-ibadah>, accessed on December 13, 2012

In contrary with the information given by Asep, one of the residents who did the vandalism action has a collective agreement among them to not using that mosque. “It is lying if they stop their religious activities. The latest time, they held a big event last week and they still do Friday praying together,” he said.

The agreement which unfavorable Ahmadiyah and done unilaterally were identified and justified by the police apparatuses. “There is existing collective agreement,” said Kabid Humas Polda Jabar Komisaris Besar Polisi Martinus Sitompul.⁹⁵

At 08.00 a.m.:

A group of peoples, who are the local residents, came to complex of Nur Hidayah mosque by carrying out some tools, such as timber and crowbar, and they are not preparing the tools, take and bring the stones and other things which could be used as the weapons. They were urging the dissolution of Ahmadiyah and threatening to ruin the mosque.⁹⁶

At 09.00 a.m.:

The coming mass which becomes increase slowly, it's around 200 peoples. Those group moved together to tear down the back of that building. Then, another mass follows by tearing down the windows, door, ceiling, parabolic using the timber and crowbars. The roof is also being the target of that demolition by the people. That incident was occurred for around two hours, before the apparatuses come to reduce the action.⁹⁷

95 See “Perusakan Masjid Ahmadiyah di Cianjur oleh Warga Setempat”, <http://bisnis-jabar.com/index.php/berita/perusakan-masjid-ahmadiyah-di-cianjur-oleh-warga-setempat>, accessed on December 13, 2012

96 See “Masjid Ahmadiyah di Cianjur Dirusak Massa”, <http://metrotvnews.com/read/newsvideo/2012/02/18/145527/Masjid-Ahmadiyah-di-Cianjur-Dirusak-Massa>, accessed on December 14, 2012

97 See “Masjid Ahmadiyah Dirusak Sebelum Polisi Datang”, <http://www.tempo.co/read/news/2012/02/17/058384661/Masjid-Ahmadiyah-Dirusak-Sebelum-Polisi-Datang>, accessed on December 13, 2012



The condition of Nurhidayah Mosque belong to Ahmadiyah followers after destruction in Cisaar, Cipeuyeu, Cianjur, West Java, on Saturday, February 8th, 2012. (Picture: TEMPO/Prima Mulla).

That demolition action was identified and known by the police. But the apparatuses seems did not care with that incident, and let the intolerant group to destroy that measuring 15x10 meter mosque. “Today we planned to come to that mosque of Ahmadiyah. Besides to meet each other (silaturahmi), we also want to socialize repeatedly about the join decree/ SKB Tiga Menteri. But before we arrived, the mosque was damaged by people,” said Cianjur Police chief officer, Ajun Komisaris Besar Agus Tri Heriyanto.⁹⁸

To anticipate the similar incident happened again, four months later, on June 20, 2012, the Regent of Cianjur, Tjetjep Muchtar Sholeh with the Head of Cult Surveillance Coordinating Agency (BAKORPAKEM), Sholihin socialized that SKB Tiga Menteri (Minister of Religion, Minister of Internal Affairs and Attorney General) year 2008 and Governor Regulation number 12/2011 about Warning, Teaching and Activity Prohibitions of Ahmadiyah. Besides being the Head of BAKORPAKEM, Sholihin also served as the Chairman of Attorney of Cianjur.

98 *Ibid.*

That socialization done by putting up the banners of that SKB tiga menteri year 2008 and the Governor Regulation number 12/2011 in front of 17 mosques of Ahmadiyah at the same time. One of those mosques is Al-Ghofur located in Jalan Muwardi, Cianjur.⁹⁹

Another incident happened in Cianjur is what occurred on Wednesday, July 25, 2012. A number of people, mass organization (ormas) of FPI did the sweeping action to the night clubs and restaurants in Cianjur City. When passing Jalan Muwardi, the mass besiege one of Ahmadiyah's mosques. They reminded the Ahmadiyah community to not celebrating Idul Adha through that mosque. They also said to not use that mosque for praying or do some religious activities there.

b. Tasikmalaya

On evening of April 12, 2012, the Baitul Rahim Mosque, the property of Ahmadiyah congregations that located on KH. U. Syarifudin street, kampung Babakan Sindang, Desa Cipakat, Kecamatan Singaparna, Kabupaten Tasikmalaya was sealed after being accused by Islam Defenders Front (FPI) that the community of Ahmadiyah not comply the Governor Regulation (Pergub) of West Java no.12/2011 and SKB tiga menteri, in a dialogue event which attended by Kepala Desa, the representation of Police Department of Tasikmalaya Sector, representation of the Indonesian Military (TNI), local military commad (Koramil) and the district office, in The office of Kepala Desa. That mosque attacked and damaged by around 20 personnels of FPI. By the information from the Leader of Ahmadiyah congregations in Singaparna district, Nanang Ahmad Hidayat, "Demolition of Baitul Rahim mosque yesterday, on Friday, April 20, 2012, around 10.00 a.m. are the fourth times done by personnel of FPI on Ahmadiyah".¹⁰⁰

99 See "Rumah Ibadah Ahmadiyah Ditempeli Baliho SKB", <http://nasional.inilah.com/read/detail/1874287/17-rumah-aibadah-ahmadiyah-ditempeli-baliho-skb>, accessed on December 10, 2012.

100 See "Massa Rusak Masjid Ahmadiyah di Singaparna", <http://metrotvnews.com/read/newsvideo/2012/04/20/149478/Massa-Rusak-Masjid-Ahmadiyah-di-Singaparna/6>, and also "Masjid Ahmadiyah dilempar Bom Molotov", di link:



A group of Islamic mass organizations do the destruction on Ahmadiyya's mosque Baiturrahim in Singaperna, Tasikmalaya. (Picture: Antara)

Following the detailed description of intolerant case of Ahmadiyah in kampong Babakan Sindang, Desa Cipakat:

The presence of Ahmadiyah congregations in Tasikmalaya Regency cannot be fully accepted by the local society. The intolerant actions have its momentum when the formal legacy was published by government through the SKB and Pergub of West Java. So, some of action did to get rid and remove the existence of Ahmadiyah teaching in Pasundan Land. Some of efforts to have dialogue in order to gain “awareness”, oftenly stagnated and became not useful. The anarchy actions still occurred as the social phenomenon. This situation befalls on Ahmadiyah congregations which lived in Tasikmalaya Regent. “The residents have warned them, but they (Ahmadiyah) still perform their religious activities here,” Asep said.¹⁰¹

<http://www.inilahjabar.com/read/detail/1853055/masjid-ahmadiyah-tasik-pun-dilempar-bom-molotov> and overall narration of those online news were accessed on December 14, 2012.

101 See “Massa Serang Sampai Rusak Masjid Ahmadiyah di Tasikmalaya” di link: <http://www.merdeka.com/peristiwa/massa-serang-amp-rusak-masjid-ahmadiyah-di-tasikmalaya.html>, also see “Massa Rusak Masjid Ahmadiyah di Tasikmalaya,” <http://www.antaraneews.com/berita/307039/massa-rusak-masjid->

That bad precedent began on Thursday, April 12, 2012. The dialogue between Ahmadiyah congregations and local residents who felt so uncomfortable with the activities of Ahmadiyah surrounding them, was held at that time. That program was held in the public room of local official place of Desa Cipakat. At that moment, some of representations from several elements attend this program, such as from Ahmadiyah congregations, FPI, the Head of Village (Kepala Desa), local police department, muspida element, koramil, and Camat. They came to the official place of Desa Cipakat. But, unfortunately, that dialogue was running not smoothly, because they stayed on their own opposing argumentation.

For Ahmadiyah congregations, their activities are the rights of citizens which should be guaranteed by the constitution which being the joint guidance in the context of national and state. "On that meeting, FPI accused Ahmadiyah have violate the SKB 3 Ministers and regulation of Governor of West Java because we are still doing our worships," said the Leader of Ahmadiyah branch Singaparna, Nanang Ahmad Hidayat.¹⁰²

On that meeting, the debate was occurred, and FPI did not want to hear the reason of Ahmadiyah that explaining the article 29 the 1945 Constitution about the guaranty to do worships. In the afternoon, FPI was sealing Baiturrahim Mosque then locked the fence and tacked the door of the mosque. Then they leaved the location. Next day, Friday, April 13, 2012, the Ahmadiyah congregations wanted to do Friday praying, so

ahmadiyah-di-tasikmalaya. Sources were accessed on December 14, 2012.

102 See "Kronologi Perusakan Masjid Ahmadiyah Tasik", <http://m.inilah.com/read/detail/1853257/kronologi-perusakan-masjid-ahmadiyah-tasik>, See also "Ahmadiyah Tasikmalaya Dituding Langgar SKB 3 Menteri", <http://www.gatra.com/politik/11505-ahmadiyah-tasikmalaya-dituding-melanggar-skb-3-menteri.html>, those both resources were accessed on December 14, 2012 .

that the seal was broken. “We are not breaking the regulations. We must do our worship today, so we must open this seal,” Nanang Ahmad Hidayat said.¹⁰³ The same statement also told by another Ahmadiyah congregation, Budi Badrussalam. He said that their mosque was sealed on Thursday, April 12, 2012, by FPI. “At that time, FPI sealed our mosque, but we open it because we did not harm anyone,” he said.¹⁰⁴

One week after, on Thursday, April 19, 2012, the police came to them and informed that FPI will return back and sealing the mosque of Baiturrahim, “Ya, that’s true, on Friday (20/4/2012) around 10.00 a.m., they came and put up the banner, doing oration, and read the Stance Statement which saying that they object to the Ahmadiyah’s activities,” he said.¹⁰⁵

The seal process was continually occurred and getting worst because changing into vandalism actions. The mosque was severe damaged, its windows were broken, and some of facilities such as parabolic, books and other were damaged also. The carpet combustion was occurred at that time, but it was not occurred continually because the police apparatur came and stopped the action.¹⁰⁶

Another sources informed, there is a certain ormas, suspected FPI, which considered Ahmadiyah congregations still doing their activities in that mosque before it was sealed. “Actually this is just a declaration of closing ceremony of Ahmadiyah Baiturrahim Mosque which

103 See “Ahmadiyah Tasikmalaya Dituding Langgar SKB 3 Menteri”, <http://www.gatra.com/politik/11505-ahmadiyah-tasikmalaya-dituding-melanggar-skb-3-menteri.html>, those both were accessed on Desember 14, 2012.

104 See “Masjid Ahmadiyah Sempat Disegel”, <http://nasional.inilah.com/read/detail/1852996/masjid-ahmadiyah-di-tasik-sempat-disegel>, was accessed on December 13, 2012.

105 See “Ahmadiyah Tasikmalaya Dituding Langgar SKB 3 Menteri”, *op.cit.*

106 See “Inilah Kronologi Perusakan Masjid Ahmadiyah di Tasik”, tulisan bersumber dari situs: <http://www.mediaindonesia.com/read/2012/04/20/314287/284/1/Inilah-Kronologi-Perusakan-Masjid-Ahmadiyah-di-Tasik>, accessed on December 14, 2012.

initiated by the ulema and witnessed by some local Islamic ormas. At the beginning, this run normally, but surprisingly some people (around 20 persons) coming from back door and starting to damage,” said the correspondent of Metro TV, Hendra Herdiana, when contacted in Jakarta, Friday, April 20, 2012.¹⁰⁷

As a result, some of facilities of the mosque were damaged so badly. The people were destroying the glass, window, and the door of mosque by using the woods and stones. The mass was also burning the carpet inside the mosque. Luckily, the fire could be extinguished. Tent of people get inside the complex of mosque by ascending the fort. This riot occurred around in 30 minutes. The action was left seem by the local police there. The police did not prohibit or prevent their action.¹⁰⁸

The police department of Tasikmalaya was actually receiving the info about demonstration to sue the Ahmadiyah’s mosque closure. Achieving that info, they said that they suddently went to the location since 08.00 a.m. to watch. But that action cannot be muted and the demolition by the mass on that mosque also was hard to be prohibited. After the action was stopped, the police did some action to anticipate the worst demolition action. That guarding action held for two days.¹⁰⁹

One day after the vandalism action on Ahmadiyah’s mosque, two of perpetrator which the initials are A and US surrendered themselves to Polres Tasikmalaya. Those both surrendered themselves confessed that they are not part of FPI. Those persons were just coming from

107 *Ibid.*

108 See “Masjid Ahmadiyah di Tasikmalaya Dirusak”, <http://www.tempo.co/read/news/2012/04/20/178398492/Masjid-Ahmadiyah-di-Tasikmalaya-Dirusak>, accessed on December 13, 2012. Also see “Ahmadiyah Tasikmalaya Dituding Langgar SKB 3 Menteri. Op.cit.

109 See “Khawatir Terjadi Aksi Penyerangan, Polisi Jaga Ketat Daerah Basis Ahmadiyah”, <http://tianshu.rimanews.com/read/20120422/60543/khawatir-terjadi-aksi-penyerangan-polisi-jaga-ketat-daerah-basis-ahmadiyah-di>, accessed on December 10, 2012.

outside of Cipakat Singaparna to take part in that vandalism action. Polres Tasikmalaya did not detain and assign them to be the defendant to those both perpetrators while waiting the real report of Ahmadiyah Community.¹¹⁰

This following anarchy action in Tasikmalaya occurred on Wednesday, May 2, 2012, the mosque of Al-Muhajirin, the property of Ahmadiyah which located in Kampong Babakan Sari, Desa Kutawaringin, Kecamatan Salawu, burnt by hundreds people. Mass was burn that mosque when the residents rest. That incident occurred at 01.00 a.m. in the early morning.

This is the detail of combustion case of Al Muhajirin Mosque:

These unfortunate events which befall the sisters and brothers in Kampong Babakan Sindang, Cipakat Vilalge, *Kecamatan*/district Singaparna also felt by Jemaat Ahmadiyah in Kampong Babakan Sari, Kutawaringin Village, *Kecamatan*/District Salawu, Tasikmalaya. Only two weeks after the previous assault a crowd numbering hundreds of people set fire to the mosque Al Muhajirin.

When the incident happened, the local residents which directly saw it could not do anything to hinder the attackers. As a result, some of mosque's facilities devastated with no leftover. "There's no people die or injured in that assault and combustion incident. But, the local residents there and Ahmadiyah congregations fear to go out of their homes", said Camat Salawu, Rachmat Hidayat.¹¹¹

110 See "Pelaku Perusakan Masjid Ahmadiyah SerahkanDiri", <http://www.antaraneews.com/berita/308766/pelaku-perusakan-masjid-ahmadiyah-serahkan-diri>, accessed on December 12, 2012.

111 See "Perlengkapan Masjid Jemaat Ahmadiyah Tasikmalaya Dibakar, <http://www.mediaindonesia.com/read/2012/05/02/317049/289/101/Perlengkapan-Masjid-Jemaat-Ahmadiyah-Tasikmalaya-Dibakar>. Info was accessed on December 13, 2012

The assault incident and combustion of Ahmadiyah's mosque happened at 01.00 a.m., Wednesday, May 2, 2012. The local society nearby location which resting at that time, were surprised by the noise that came from mosque. The coming mass was predicted around 100 persons, and among them there was screeches voice which commanding to burn the mosque.

A moment later, after arrived in the yard of Al Muhajirin mosque, mass mass tried to get in by breaking the main door of the mosque and then burning it. And the result was some of facilities of that mosque finally burnt, such as mukena (wordshipping dress), carpet, curtain, wall clock, loud speaker, a book which usually used for Friday khutbah. "When that incident occurred, there's none inside the mosque, that's why no victims die or injured," said Camat Salawu.

According to the witness, among the mass who did the action, mostly wearing the white costumes, turbaned and wearing the masks. From those wore attributes, the attackers and the burners had semblance with the mass who attacked the Baitul Rahim Mosque – namely members of FPI. After that combustion incident, mass dissolve itself.

c. Banjar

On Wednesday, April 25, 2012, Al Istiqomah mosque where located in Kampung Tanjungsukur, Pataruman, Banjar, was sealed by Coordinating Board for Monitoring Public Trust (Bakorpakem) permanently. This was due to running activities by Ahmadiyah congregations that were considered contrary to SKB Tiga Menteri year 2008 and Pergub number 12/2012, and feared would sparking social conflict which probably due to physical violence among society. The gate, main door and windows of the mosque were sealed using the iron

and be welded.¹¹²

d. Bandung

On Thursday night, October 25 2012, An-Nashir mosque is located in Block H. Sapari District Astana Anyar, Bandung, was attacked and damaged by the members of FPI which passing it accidentally while back after sweeping. As a result, the mosque that stood since 1948 have suffered considerable damage. The mass of FPI broke the windows, door and mused the rooms inside mosque. This incident also made the Ahmadiyah community could not do their activities such as Idul Adha praying and slaughtering sacrificial animals.

Below is the chronology detail of anarchy action suffered by Ahmadiyah Followers in Bandung:

Based on the info from MH, one of Ahmadiyah leader, on Thursday evening, around 07.30 p.m., while the pilgrims of Ahmadiyah do their daily activities, such as prayers in congregation in An-Nashir mosque located in Block H. Sapari, *Kelurahan/* Sub-district Cibadak,

Kecamatan/ District Astana Anyar. That pray was continued together with the other ritual to welcome Idul Adha. At 09.00 p.m., the leader



Dozens of Islamic organization members in Banjar City, West Java, sealed an Ahmadiyah's Mosque on Tuesday, May 3th, 2012. This is the second action since 2009. (Picture: Liputan 6)

112 See "Masjid Ahmadiyah Disegel Pemkot Banjar", <http://news.liputan6.com/read/393230/masjid-ahmadiyah-disegel-pemkot-banjar>, accessed on December 12, 2012.

of Ahmadiyah, Asep Abdurrahman (Utep) is coming. He asked the congregations not do any activity. Unfortunately, the congregations did not understand what the activity meant to by Utep. “We just do our daily activities,” HM said.

A few moments later, Utep went. Ahmadiyah congregations took rest after a while a commotion in the mosque. Then, the group of FPI returned back and forced them to make a statement of will not doing the activity. “We won’t. It’s not fair to forbid us worshipping. But FPI threatened us to make a ryot like in Cikeusik,” he said.

A member of Ahamadiyah, Atep Suyono (42) gave additional information. Around 30 people went to the mosque while shouting, slamming some stuff in mosque, and breaking up the window of the mosque by using the wooden beams. “They rampage here, while destroying stuffs, windows also broken up,” Atep said. People also threatened to burn the mosque if the congregations keep doing on celebration Idul Adha, praying Eid, and slaughtering the sacrificial animals.¹¹³ “Allahu akbar! Allahu akbar! We will burn this mosque if you keep doing praying Eid and slaughtering the sacrificial animals here,” Ayo said, another Ahmadiyah pilgrim, to imitate the threatened statement from one of the attackers.¹¹⁴

In that assault, two windows of the mosque was broken hit by the beams, the gate was uprooted, and the stuffs were slamming. *Muballigh* in the An-Nashir mosque, Abdul Wahid Yora, said that in takbiran night of Idul Adha, he and 10 young men came to mosque to preparing all the needs for Eid pray and sacrificial animals slaughter which will be held in tomorrow, on Jumat, October 26, 2012. In that two-story mosque also the mothers gathering inside.¹¹⁵

113 See “Masjid Ahmadiyah di Bandung Dirusak”, <http://regional.kompas.com/read/2012/10/26/12122637/Masjid.Ahmadiyah.di.Bandung.Dirusak>, accessed on December 16, 2012

114 See “Massa Penyerang Ancam Bakar Masjid Ahmadiyah”, <http://regional.kompas.com/read/2012/10/26/18253420/Massa.Penyerang.Ancam.Bakar.Masjid.Ahmadiyah>, accessed on December 16, 2012

115 See “Kronologi Penyerangan Masjid Ahmadiyah di Malam Takbiran”, <http://>

At first 10 men in white robes, begged Yora and comrades to lowering photograph on one of their leaders which affixed on one wall of the mosque. But that demand of that white-robes group did not be fulfilled. Then, by the time, the amount of that group's personnel became increased and clustered around the mosque of An-Nashir. "The situation in the lower ground (first floor of the mosque) become not conducive, some people shouting from secondary floor, so I go upstairs of the mosque because there are some mothers who should be secured," he said.

When Yora was in second floor to soothe the mothers there, he was called by an officer who suspected as an intelligence of the police department. That officer asked Yora to come to Polsek Astana Anyar. Yora firstly refused him by saying that he just being the *mubaligh* in that mosque, he is not the official or the leader. But that man tried to force him to come to Polsek with the reason of his-self security. Lastly, the representation of Ahmadiyah and mass were negotiating in the office of Polsek Astana Anyar, Jalan Astana Anyar, Bandung.

Other information told that assault was occurred spontaneously. At that time, tenth of FPI's members did a sweeping action on alcohol and night club in that area. But, when passing An-Nashir Mosque, around at 11.00 a.m., they saw Ahmadiyah congregations were doing takbir. They argue of each other suddenly. FPI asked the Ahmadiyah congregations to stop their activity. The demand was refused. Then FPI keep on forcing Ahmadiyah to obey the regulation of Governor of West Java which is forbidding any kinds of Ahmadiyah's activities. Because none wants to budge, one of representation came to Mapolsek Astana Anyar which located just around 300 metres of the mosque. But that deadlocked negotiation.¹¹⁶

Knowing that negotiation was unuseful, FPI which still staying

bandung.okezone.com/read/ 2012/10/26/526/709801/kronologi-penyerangan-masjid-ahmadiyah-di-malam-takbiran, accessed on December 16, 2012

116 See "Ahmadiyah Tak Salat Id, Kurban pun Bersembunyi", <http://dutaonline.com/ahmadiyah-tak-salat-id-kurban-pun-bersembunyi/>, accessed on December 12, 2012.

around the mosque, were throwing the windows and damaging the fence of the mosque. The incident occurred on Friday at 01.00 a.m. The Wali Laskar FPI Bandung Raya, Muhammad Asep Abdulrahman or who officially called as Utep, also confessed accidentally attacked the mosque of An-Nashir. FPI just want to sweep the night clubs which are still opened when Moslem celebrates Idul Adha. “We just accidentally walk to home and passing the mosque, and at the time we see an activity there where the symbols of Ahmadiyah inside,” he said in Bandung.¹¹⁷

One of Ahmadiyah’s figures in Bandung, MH, said that the destroying action happened after the negotiation finished between their colleagues and FPI have no solution. “We are being asked to sign the statement that we will not do anything while celebrating Idul Adha. We won’t to do that because we are not going to do something which contrary to Islam,” he said.¹¹⁸

The leader of FPI, Muhammad Asep Abdulrahman (Utep), confirmed that when he transitted to that mosque, he met with eight men and two women who were doing activities there. FPI was suddently asking them to stop their activities, but Ahmadiyah congregations ignored them all. Then FPI and Ahmadiyah choose to do a negotiation in Malpolsek Astana Anyar. “From our side asking Ahmadiyah to make a statement to stop all of their activities according to the governor’s regulation, but after waiting for some hours, the side of Ahmadiyah does not want to fulfill it,” he said.

Utep explaine, because of the deadlock negotiation, he finally decided to return back to the mosque. “I myself damaged the glass because there’s an Ahmadiyah’s pilgrim said that he wants to use stand *microphone*, that’s why I really angry,” he said. The regulation of

117 See “Lempar Masjid Ahmadiyah, Ini Penjelasan FPI”, <http://nasional.news.viva.co.id/news/read/362562-lempar-masjid-ahmadiyah--ini-penjelasan-fpi>, accessed on December 13, 2012.

118 See “Kronologi Penyerangan Masjid Ahmadiyah di Bandung”,<http://nasional.news.viva.co.id/news/read/362608-kronologi-penyerangan-masjid-ahmadiyah-di-bandung>, accessed on December 12, 2012

Governor of West Java that intended is Pergub of West Java No 12 Year 2011 about Disallowance of Activity of Ahmadiyah Congregations in West Java which signed by the Governor of Ahmad Heryawan.¹¹⁹

Atep Suyono (42), the followers of Ahmadiyah said that when he was in police station, around 10.00 p.m., the attackers asked the deal from Ahadiyah to not doing Idul Adha praying and slaughtering sacrificial animals. At that time also, the representation of Ahmadiyah agreed and promised to fulfill demand of attackers.

After dealing, some of group members of attackers allowed to go home by police. And third persons were being detained to sign the letter on their promises to comply what the attackers wanted. "We comply what they want, it is in order to make them quickly," Atep Suyono said when met in guess room of Ahmadiyah's mosque, Friday (26/10).¹²⁰

After that, the police asked Ahmadiyah signing that attacker's demand. That letter containing that Ahmadiyah promises to will not hold Idul Adha praying and slaughtering sacrificial animals. One of those third persons didn't want to sign that letter. Finally, they arrested by the police, until they picked up by other Ahmadiyah pilgrim from Mapolrestabes Bandung. In the morning, around at 09.00 a.m., those three persons, Yora, Irfan, Mujib allowed to go home by the police because picked up by their friends.

The congregations of Ahmadiyah also stay on their plan to slaughtering sacrificial animals to celebrate Idul Adha. But they hide the location. "We stay on our plan to slaughtering sacrificial animal even we done it by stealth," Atep Suyono said.

Asep said that slaughtering sacrificial animals is a form of their

119 See "Kronologi Penyerangan Masjid Ahmadiyah di Bandung", <http://www.indonesiamedia.com/2012/10/27/kronologi-penyserangan-masjid-ahmadiyah-di-bandung/>, accessed on December 13, 2012

120 See "Diserang, 3 Jemaat Ahmadiyah 11 Jam Ditahan Polisi", <http://nasional.kompas.com/read/2012/10/26/18091851/Diserang.3.Jemaat.Ahmadiyah.11.Jam.Ditahan.Polisi>, accessed on December 23, 2012

devotion to God. But, Atep did not want to inform where the location of that event. On the same time, some of Ahmadiyah congregations in Bandung had not do Idul Adha praying after that assault action by a group of people on Thursday night. But according to the circulating news, the sacrificial animals had been brought by police. "After the incident (assault by FPI) last night, those sacrificial animals have been brought by the police," said one of the Ahmadiyah congregations. He said that those animals were taken to be slaughtering on the other place. "I don't know about the amount of that animal. I haven't count it yet," he said. Besides that, one of police personnel said that six of cows and two goats which purchased by the congregations had been carried on to Mapolrestabes Bandung. "Those sacrificial animals were slaughtered at Polrestabes Bandung," he said.

The personnel also said that he with the other police personnels were keeping watch after the situation surrounding the mosque until undetermined time. "Temporary, there's no activity here. Even, Friday praying also cannot be held," he said. The monitoring results says that on 8.00 a.m., seen dozens of youths still cleaning up the residual dirt of that event.

The Deputy Chief of Polres Kota Besar Bandung AKBP Dadang Hartanto denied that the police conceded those FPI's action. According him, police have monitoring the sweeping action which done by FPI because they have asked for permission from police institution before. "There are 20 personnels of us that stand guard the location," he said in Bandung yesterday. "At that time we are going to have negotiation from those both groups in Polsek Astana Anyar, both there is some who spontaneously do that destruction on that mosque," he stated.¹²¹

Until tomorrow Friday, October 26, 2012, the police apparatuses from Polrestabes Bandung and Polsek Astana Anyar still keep watch surrounding the mosque. That Ahmadiyah pilgrim could not do Idul

121 See "Ahmadiyah Tak Shalat Id, Kurban Pun Bersembunyi" <http://dutaonline.com/ahmadiyah-tak-salat-id-kurban-pun-bersembunyi/>, accessed on December 13, 2012.

Adha praying in that mosque. Some of them came to that mosque in the morning but then return back. Besides that, they also did not doing the slaughtering sacrificial animals.¹²²

4. Muktamar Ahmadiyah Canceled

Besides accepting the anarchy action in the form of sealing, assault, defacement, and combustion of the property, the Ahmadiyah congregations forced to cancel their agenda to hold a muktamar which planned held in Tasikmalaya. The reason is the government doesn't want to issue the permission of the muktamar event of Ahmadiyah in that area.

In the term of handling this case of Ahmadiyah which perceived by the local government of Tasikmalaya have a potent to create a social conflict and also socialization effort of enforcement of SKB Tiga Menteri year 2008 and Pergub number 12/2011 about the Disallowance on Ahmadiyah, Kepala Desa, polsek, element of muspida, koramil, and camat facilitated a dialogue in Kantor Kepala Desa Cipakat. That dialogue event attended by Ahmadiyah congregations and also its contrary group, FPI. But that program had no found the deal. As result, after the dialogue finished, conflict gets worse.

The Chairman of the Office of National Integration and Civil Protection, Iwan Setiawan feels that that Ahmadiyah conflict case handlement is not being the responsibility of local government. He also feels that so hard to find a good solution related to this context which presumably due to beliefs diversity.

The Regent of Tasikmalaya as the top leader in that region seemed contraproductively performed. This reflected from his rejection to issue a permit for the event of National Congress (Muktamar) of Ahmadiyah. That event was planned to be held in Kecamatan Salawu Kabupaten Tasikmalaya. Besides not giving the access of public service as part of

122 See "Eti Menangis Tak Bisa Shalat Id", <http://www.tribunnews.com/2012/10/27/eti-menangis-tak-bisa-salat-id>, accessed on December 13, 2012.

citizens, the Ahmadiyah congregations also will have no protection if they still force to hold their agenda.¹²³

5. The Citizen (Strange)

The Ahmadiyah congregations in Manis Lor kecamatan Jalaksana Kuningan until today was served as the “strange” people. E-KTP making process is actually being the not-easy obtained rights for them. They should striving long-term process to be served for getting that identity card, and they should to empty the column of religion. The validity identity which is put on that Resident Identity Card or KTP really important to do many administrative purposes and become the media for population and citizen census. In order to integrate the administration system and population database, the Ministry of Internal Affairs (Kemendagri) issued a particular policy to regulate the population database through the new style, which usually called as E-KTP for the citizens.

But that policy is not directly able to be applied for Ahmadiyah community in Manis Lor Village, District Jalaksana, Kuningan. The Local Government of Kuningan cancelled to process that electronic identity card because of religion status and beliefs. But on October, the Ahmadiyah community which totaling were about 5.000 peoples, served to processing E-KTP. The Ahmadiyah congregations still befall a discriminative service from the officials. They were forbidden to write down their religion on the religion column, and its column let to be empty. That provision of emptying the religion column in the format of E-KTP, should be submitted by central government.¹²⁴

123 See <http://www.sorotnews.com/berita/view/bupati-tasikmalayatolak.3249.html#.UKCOUmcrpkg>, accessed on December 12, 2012.

124 See “Penganut Ahmadiyah diKuninganMembuat-E-KTP,” <http://www.metrotvnews.com/read/newsvideo/2012/10/13/161620/Penganut-Ahmadiyah-di-Kuningan-Membuat-E-KTP/6>, accessed on December 10, 2012.

6. Government and MUI Respons

Along 2012, the congregations of Ahmadiyah in West Java were experiencing discriminative action done by stakeholders. Not only closure the access of public service as the citizen, intimidation and terror which “initiated” by the government, but the other similar discrimination done by the surrounding intolerant society. Those incidents were experienced by the Ahmadiyah congregations in Bandung, Tasikmalaya, Bogor, Cianjur, Banjar and Kuningan.

The anrchy actions by FPI, a group of radical organization which attacked and destroyed the mosque Baitul Rahim belongs Ahmadiyah congregations in Singaparna, Tasikmalaya, West Java is the discriminative action which cannot be tolerated. But the minister of religion was contrarily supporting and “justifying” and positioning the victims as the group who blamed. “There’s probably an improper condition there,” Suryadharma Ali said.

Suryadharma Ali assessed that incident is a logic consequence of Ahmadiyah congregations which ignored the regulation. The congregations of Ahmadiyah which still running for their religious activities, finally provoke the emotion of people there. “I asked to Ahmadiyah, please to obeying the applicable local rule and we ask you to stop your religious activities. And we are trying to make a supporting program to straighten the Islamic teaching. That is my warning to Ahmadiyah, please obey all of the applicable regulation,” he said.¹²⁵

After the incident of assault and destruction the Baitul Rahim mosque belongs of Ahmadiyah congregations in Tasikmalaya done by some of members of FPI, Djoko Suyanto, Coordinating Minister for Politics, Legal and Security said that all of anarchy actions form such as the assault and destruction or another discriminative actions cannot be occurred in Indonesia. For that, those vandalism actors should be

125 See “Menteri Agama Salahkan Jemaat Ahmadiyah”, <http://regional.kompas.com/read/2012/04/20/19255662/Menteri.Agama.Salahkan.Jemaat.Ahmadiyah>, also “Menag Minta Ahmadiyah Hentikan Aktivitas”, <http://news.okezone.com/read/2012/04/20/337/615468/menag-minta-ahmadiyah-hentikan-aktivitas>, both resources were accessed on December 15, 2012.

processed according to the applicable law.

Coordinating Minister for Politics, Legal and Security (Menkopolkukam), Djoko Suyanto, have instructed the police apparatuses to process the perpetrators of that assault on that mosque.¹²⁶

The governor of West Java, Ahmad Heryawan, regret that incident happened on related to Ahmadiyah community and FPI in Bandung and other regions in West Java. The judgment action which done by FPI Bandung on Ahmadiyah community should not be happened. For that, he asked the law enforcement apparatuses ensnaring involved actors of that violation, both from Ahmadiyah community and FPI's members.¹²⁷

In order to prevent the spread of this incident, he also asked the community of Ahmadiyah to notice and obey the regulation of Pergub number 12/2011 about the disallowance of Ahmadiyah teaching and activity. And, in related to the the case of dissolution of Ahmadiyah teachings, handed over to central government to solve it. The government of West Java will send a letter of reprimand to FPI and eliminate that organization from Organization's name list association in West Java. But unfortunately, even that letter and disallowance on that organization (FPI) which being his obligation, cannot be realized until now.¹²⁸

Related to the assault and destruction action on the mosques belongs to Ahmadiyah congregations in Singaparna Tasikmalaya, The Minister of Internal Affair, Gamawan Fauzi, on April 27, 2012, a week after that occurrence, issued a form letter which pointed to the Regent.

126 See "Menkopolkukam: Penyerangan Ahmadiyah Ditangani Polda", <http://nasional.kompas.com/read/2012/04/20/19265755/Menkopolhukam.Penyerangan.Ahmadiyah.Ditangani.Polda>, accessed on December 13, 2012.

127 See "Polisi Tetapkan Tersangka Perusakan Masjid An Nur", <http://regional.kompas.com/read/2012/10/29/02291794/Polisi.Tetapkan.Tersangka.Perusakan.Masjid.An.Nasir>, accessed on December 12, 2012.

128 See "Perusak Masjid Ahmadiyah Ditahan", <http://www2.tempo.co/read/news/2012/10/29/058438255/p-Perusak-Masjid-Ahmadiyah-Ditahan>, accessed on December 10, 2012.

There are two points contained in that letter. Firstly, he stated that the assault case and destruction by FPI personnels should be handled through legal mechanism. Secondly, he asked the regent as the Head of local government, inviting witnesses, giving harsh reprimand, and administrative sanction in form of temporary non-active or probably more than it, a dissolution of the organizations which oftenly doing some anarchy actions. The rule of sanction imposing refers to the regulation of no.88/1985 about mass organization.¹²⁹

The respons of MUI seems like pretended not to know. According to MUI, one of obligated function of MUI is to ensure the purity of Islamic teachings through the couching and counseling related to the religious understanding of society. So that the society can be diving the teaching of Islam which spreaded by Prophet Muhammad rightly and avoiding from the deviations of religion which supporting the conflict among people.

The Chairman of MUI Bogor, KH.Ahmad Mukri Aji followed what decided by National Branch of MUI and International Decree of Ulema to perform his idea facing the case of Ahmadiyah which performed concensus about perspective that deals Ahmadiyah is not integrated to the sect of Islam. Because of that accordance, MUI have no responsibility on Ahmadiyah to be protected, moreover to share contribution for Ahmadiyah's teachings development.

After the incident in residence of Ahmadiyah community, MUI waits for President's action to solve this problem in order to create religious harmony among people. This is not excessive, because the local government of West Java and government of Bogor Regency have banned Ahmadiyah with all of its activities.¹³⁰

After the assault and destruction incidents done by some people

129 See "Penyerangan Ahmadiyah di Tasikmalaya, Mendagri Minta Bupati Ambil Tindakan", <http://www.depdagri.go.id/news/2012/04/27/penyerangan-ahmadiyah-di-tasikmalaya-mendagri-minta-bupati-ambil-tindakan>, accessed on December 10, 2012.

130 See <http://rri.co.id/index.php/detailberita/detail/24159#.UKDor2crpkh>, accessed on December 9, 2012.

of FPI on Ahmadiyah's mosque in Bandung, the Chairman of Central Board of FPI, KH.Ma'ruf Amin disagree to that anarchy actions. He said that all forms of anarchy are not justified in Islamic syaria. For that, the law enforcement apparatuses asked to be strict on against the perpetrators if the supporting data showing that the action of FPI containing the criminal factors.¹³¹

D. The Stubborn “defending champion”: Syaria Law in West Java

Supervising the report of Freedom of religious/ belief on 2011 and 2012, the Province of West Java is being the “Champions” as the intolerant province which indicated by the amount of violations on freedom of religious/ beliefs. Quantitatively, the incidents and vandalism actions occurred there, spreadedly in 5 last years lead by politician of Prosperous Justice Party (PKS) more increasing from incidents and violations occurred in other places. And, the data of 2012 showing off the escalation of incident and violation compared to the data of the previous years.¹³²

There are too many factors which underlying the minor portrait of freedom of religious/ beliefs in this Pasundan land; sociology, politics, juridical, and economic. In this part, the paper will analyze one of the determinant factors on establishment of some incidents and discriminative-intolerant, namely juridical factor. More specific, the paper will describe about sharia rule (in the term of governor regulation and local regulation) in West Java which enable to triggering the intolerant action and performace, even by the members of society or governmental apparatuses, both in security sector or bureaucracy.

Paper will be not describing about the whole of local regulation

131 See <http://www.tribunnews.com/2012/10/27/ketua-mui-minta-polisi-tindak-pelaku-perusakan>, accessed on December 11, 2012

132 See Hasani dan Naipospos (Eds.), 2012, *Politik Diskriminasi Rezim SBY: Kondisi Kebebasan Beragama/Berkeyakinan tahun 2011*, (Jakarta: Pustaka Masyarakat Setara). Also see the data of 2012 in the chapter II of this book.

(Perda) with sharia nuanced which existed in jurisdiction and administrative regional of West Java province, even on that provincial level or regent/city level. That perda with sharia nuanced is not slightly, even in provincial level¹³³ or in the level of city/regent.¹³⁴ In this paper, SETARA will pay attention on this Perda with sharia nuanced which relating to the causal connection with all of violation that occurred in West Java on 2012 and others Perda which potentially become a new instrument of juridical justification for the incidents, discriminative and intolerant action in West Java in the future.

1. That Anti-Ahmadiyah Pergub

One of the juridical instruments which oftenly determining the discriminative and intolerant action is Government Regulation (Pergub) No.12 year 2011 about the Disallowance of Ahmadiyah Congregations Activity in West Java. Symbolically, it was so clear that this Pergub “similar” with the Joint Decree of Minister of Religion, General Attorney, and Minister of Internal Affairs Number 3 year 2008 about the Warning and Instruction for Followers, Congregations, Members, and/or the Member of Indonesia Ahmadiyah Congregations (JAI) and Society, which usually called as SKB Tiga Menteri.

Some important parts of that governor regulation will be narated and discussed the unconstitutional logic which contrary to the constitutional guaranty on freedom of religious/ belief.

133 The Spirit of Sharia formalization through the Perda of 2012 still dominates the public regulation in provincial level. Not only in West Java, but also in East Java through the Pergub no.55/2012 about Religious Guidance and Control Sects Activity (Pembinaan Kegiatan Keagamaan dan Pengawasan Aliran Sesat) issued on July 23, 2012. That Governor Regulation become a response and a follow-up action on the Fatwa No. Kep-01/SKF-MUI/JTM/I/2012 about Misguidance of Shia Teachings after chaos and assault on Shia pilgrims in Sampang, Madura. See <http://antipartai.wordpress.com/2012/09/14/draft-gugatan-melawan-predisen/> accessed on December 12, 2012. In those two regions of West Java and East Java, Pergub implicates the occurrence of discriminative and intolerant actions in every regions.

134 Some of Perda data in Regency/City will be served in other part of this book.

From its considerants, we could see that the Governor Regulation (Pergub) twisting the concept and perspective of human rights to justify “what does the government want” about the disallowance of Ahmadiyah. The first consideration of that Pergub is: “The Rights of Religion is part of Fundamental Human Rights and the State guarantees the freedom of citizen to own their religion and worship as what they believe on.”

This shows that the Pergub maker actually did not understand about the substance of human rights and the responsibility and obligation of a state (in this context is provincial government apparatuses) in fulfilling and protecting human rights. The concept and consideration of human rights as in Pergub’s considerants, just borrowed to pretend as if it can protect human rights, but honestly they just protect the majority group who probably partially not agree with the action of them.

The Legal Basis of Pergub, such as:

- 1) Law 1/PnPs/1965 about Prevention of Misuse and/or Religion Defamation,
- 2) Law 39 of 1999 on Human Rights (State Gazette of Republic of Indonesia of 1999 Number 165, Additional State Gazette Number 3886),
- 3) Law 32 of 2004 on Local Government (State Gazette of Republic of Indonesia of 2004 Number 125, Additional State Gazette of Republic of Indonesia Number 4437) as amended several times, and the latest through the Law 12 of 2008 on The Second Change on Law 32 of 2004 on Local Government (State Gazette of Republic of Indonesia Year 2008 Number 59, Additional State Gazette of



Republic of Indonesia Number 4844);

- 4) Law 12 of 2005 on Legalization of International Covenant on Civil Rights and Politics (State Gazette of Republic of Indonesia of 2005 Number 119, Additional State Gazette Number 4558);
- 5) Joint Decree of Minister of Religion, Attorney General, and Ministri of Internal Affairs 3 of 2008, Number of Decision Kep-033/A/JA/6/2008 and Number 199 Year 2008 about Warning and Command to The Congregations, Members, and /or Board Members of Ahmadiyah Congregations of Indonesia (JAI) and society;

Some of Legal Basis that used in Pergub showing the weakness of this regulation making process in understanding the substance of regulation. Using Law on Human Rights and Law of Covenant Ratification the Sipol Rights as the legal basis of disallowance on certain religion/belief and its expression, is showing the real incomprehension. The spirit, principle and basic regulation which contained in those two regulations, put the freedom of religious/ belief as non derogable rights, so there's no space given to the state government to restrict. That's why, those two regulations become the fundamental disallowance on a religion/belief and its all expression, are a form of serious juridical straying.



Besides those both regulations, Pergub also underlies itself juridically on that dynamic local government's regulation. Several "versions" of local government regulation, in the context of decentralization authority from Central level to the Regional level, none of them put the religion as the domain job or authority of regional level. So, basing on Pergub juridically to the local government regulation to do its function to managing religion, besides become making explicit the violation on law, also showing the incomprehension and principle ignorance of Provincial Government of West Java, particularly the governor.

Should be noted that Law 1/PNPS/ of 1965 on the Prevention on Misuse and/or Religion Defamation is the regulation which stated constitutionally by Attorney General more in absence of other regulation which managing that similar issue. And, SKB 3 Menteri is the defective rule of law according to the legal norm, because it is contrary to the constitutional guaranty on Freedom of religious/ belief which guaranteed by higher constitution, namely 1945 Constitution, Law 39 of 1999, and Law 12 of 2005.

The substance of this Pergub about Ahmadiyah disallowance stipulated in Article 3 which consist of the following two verses:

Article 3

- (1) The congregations, members and/or the Board members of Ahmadiyah is forbidden to do any activity and/or any kinds of actions in the form of anything as long related to the interpretation dissemination activities and others which deviate from the Islamic teachings principles.
- (2) The activity/hustle orally meant in verse (1) including:
 - a. Ahmadiyah teachings deployment orally, in writing, or through the electronical media;
 - b. Installing the organization's nameplate of Ahmadiyah Congregations of Indonesia in public area;
 - c. Installing the nameplate of worshipping house, educational institution and other with showing the

- identity of Ahmadiyah Congregations of Indonesia; and
- d. Using attributes of Ahmadiyah Congregations of Indonesia in any forms.
- (3) The Local Government stopped the activity/actions of Congregations, members and/or the board member of Ahmadiyah Congregations as stipulated in verse (1) and (2), according to the statutory provisions.

In that Article 3, the local government give the authority to himself for doing disallowance on freedom of religion or belief, and even he allow to diminish or eliminate on a group of people and deprive them from their thoughts and faith which is determined by their consciences. That action is surely a violation form of human rights.

Besides that, the governor's regulation also command the society to make report pointed to the police and other related apparatuses (*See article 7*). This is a problem, because police based on the regulation and national legal never have any obligation on personal's beliefs and feelings as long as their expression would not harming someone and damaging the social order.

In the situation when a certain group of society (paramilitary troops) reports to the police about Pergub that Ahmadiyah still doing their activities (even "just" praying in the mosque which they belong to and it does not juridically violate any law), surely make the police dilemma and giddy to crack down. Because they don't satisfy, so they do *eigenrichting*. When the security threats happened, then the apparatuses take the field lately, so the anarchy actions already occurred to Ahmadiyah pilgrim. It felt so useless. This incident befalls on Ahmadiyah congregations on October 25, 2012 in An-Nashir Mosque, Bandung. When the violation on Ahmadiyah congregations occurred, then instead of prosecution the perpetrators through the applicable law, the police just detained the victims of that violence. Pergub in this context surely become the trigger factors of anarchism happened among society.

Article 7

- (1) People who knowing the activity of Ahmadiyah about spreading their teachings, and others which deviate from the principle teaching of Islam and also the Joint Decree of Three Ministers should report to the Police Apparatures, or other authorized institution.

Other part which substantially exaggerated is the willingness of Local Government to do the fostering in order to give chance of the congregations, member, and/or other board members of Ahmadiyah to mend their action which deviates from the Islamic principles. (*See Article 9*). Paradigmatically, the provisions about this fostering action are confusing on three terms: *First*, relating to thing which deviating and not deviating. The measurement of deviating surely refers to the hegemony interpretation of mainstream or majority interpretation. In this context, the discrimination is occurred for sure.

Second, a chance given to people to look back to the “right” teachings means that the government imaging that he has not only the authority to arrange the governance authority, but also presenting the divine authority like usually occurred in theocracy countries in the past. This is completely contradicting to the basic principle and form of government of Indonesia which being the agreement of the founding fathers of Republic and clearly stipulated in the constitution.

Third, the intervention of local government on perception of what is allowed and not allowed, have interfering too deeply to the area of *forum internum*¹³⁵ and the private area of citizen to expressing their beliefs. And, until the unpredictable time, the instrument of state cannot be touching the “deepest” area of citizens. For that reason, the social order that would not be realized through this over authority

135 SETARA Institute has discussed about this issue in several books, those are: *Dokumen Kebijakan Penghapusan Diskriminasi Agama/Keyakinan* (2012), *Putusan Mahkamah Konstitusi dalam Uji Materi UU No. 1/PnPs/1965 tentang Pencegahan Penyalahgunaan dan/atau Penodaan Agama Disertai Catatan Kritis* (2010), and so on.

policy, but the social conflict that would be occurred among the society which have plural beliefs.

Besides that, the intervene in the matter of this out of coverage, suggests that as if the local government in West Java has no other governmental tasks that should be seized the concentration as their authority, whereas the poverty, mal nutrition, and food shortage in West Java still being the serious problems which need deep intervention from the government through the precise public policy.

Article 9

- (1) The Local Government implements the guidance and supervision in handling Ahmadiyah congregations, by utilizing Indonesian Ulema Council of West Java, Moslem religious leader and local society figures.
- (2) The guidance as referred in verse (1) aims to give opportunity to the Congregations, Members, and/or Board Members of Ahmadiyah Congregations to correct their actions which deviates from Islamic principle teachings.

More, the governor of West Java did not do discrimination only through the governor's regulation (pergub), he also provokes to infect the discrimination to the other apparatuses in district/city of West Java. The Article 12 of governor's regulation give the authority to the regents and mayors to take some operational ways to handling the case of Ahmadiyah congregations in district/city to the Governor and Minister of Internal Affairs through the Director General of National and Political Unity (Direktur Jenderal Kesatuan Bangsa dan Politik).

2. West Java is a Syaria Province?

Not differ from the provincial level, the government of district and city in West Java was also aggressive in initiating the regional regulation to be more Islamic Syaria nuanced (red: Perda Syariah), which applied not only on the issue of Ahmadiyah, but on the other issue which

more comprehensive. Among the city/districts of West Java, the most “aggressive” one to apply this regulation is Tasikmalaya.

Since four years ago, the city of Tasikmalaya have issued the Regional Regulation Number 12 year 2009 about the Values of Life Community Development on Islamic teachings Based and Community Social Norms of Tasikmalaya (*Pembangunan Tata Nilai Kehidupan Kemasyarakatan Yang Berlandaskan pada Ajaran Agama Islam dan Norma-Norma Sosial Masyarakat Kota Tasikmalaya*).

In the main considerants, Perda signed by the Mayor of Syarif Hidayat according itself to the consideration of followers amount of Islam religion in Tasikmalaya. The considerant stated: “The residents of Tasikmalaya is religious society which most of them are Moslem that always uphold the dignity, and glory of religious teachings that serve as guidance in conducting personal life and in the life of society, nation and state, so that local governments need to encourage each community’s efforts to continually call and invite to good and forbid the wrong thing to realize the atmosphere of life harmonious society, at ease, safe, orderly and peaceful”. From the side of the considerant, that regulation contrary to the constitution and principles of Pancasila State, because it basing on itself to a group of people in drafting a legislation. The ideals of Pancasila are being the law state for all of groups.¹³⁶

The alignment of a certain religion, in this context is Islam, stipulated in Perda of the seventh part of education implementing, da’wah islamiyah and syi’ar Islam (*See the Article 10*). Generally in this part, especially the Article 10, arranging some imperatives, namely: *First*, the obligation of regional government and citizen whose are Moslem to develop the education of Islam even in formal, non-formal, and

136 Sukarno stated in his speech on June 1, 1945—the born day of Pancasila, “Saudara-saudara yang bernama kaum kebangsaan yang di sini, maupun Saudara-saudara yang dinamakan kaum Islam, semuanya telah mufakat, bahwa bukan negara yang demikian itulah kita punya tujuan. kita hendak mendirikan suatu Negara ‘semua buat semua’. Bukan buat satu orang, bukan buat satu golongan, baik golongan bangsawan, maupun golongan yang kaya, tetapi ‘semua buat semua’.”

informal way. *Second*, the education of Islam is formally implemented in the form of the enrichment through the school curriculum. *Third*, the regional government fostering and facilitating the development of Islamic Study in schools, both in government school or private school. *Fourth*, commanding the Moslem to run and develop the activity of da'wah Islamiyah and syi'ar Islam within their respective. di lingkungannya masing-masing. *Fifth*, the government supports the activities of da'wah Islamiyah and syi'ar Islam. *Sixth*, the mayor is given an authority to set the operational techniques of da'wah Islamiyah and syi'ar Islam.

The Perda with Syaria nuanced in Tasikmalaya City have some main problems, such as:

1. This Perda sets about the religious matters which in decentralization design in Indonesia become not its authority. This matter is violation/infringement on national legislation, particularly the legislation about regional government.
2. This Perda is discriminative because unfairly favor to the congregations of certain religion amidst the society. And on the other hand, factually there's no similar perda which sets about the alignment to another religious congregations which in real terms exists amid in society of Tasikmalaya. Teorically, this term is clearly deviate the state authority attribute of *all-embracing and all-encompassing* (to cover and to protect all of citizens).¹³⁷
3. This Perda triggers the social conflict occurrence, especially triggered by the potent of jealousy of certain religion congregations on the other religion. This regulation is failed to construct the legal order which should oriented to establishment of *social order*.
4. This regulation (Perda) arranges the petty and absurd matters. One which can be explained is Article 11 (1) states that "Every Moslems

137 See Harold J. Laski, *The State in Theory and Practice*, New York, The Viking Press, 1947, p. 8-9. See also Miriam Budiardjo, *Dasar-Dasar Ilmu Politik*, Jakarta, Gramedia, 1996, p. 40-41

who are in *baligh age* should to wear syaria clothes (clothes that covering the aurat) as appropriate as the Islamic teachings”. This Perda imagines that the interpretation about aurat rules in Islamic teachings is in the only one meaning. Whereas the perspective of Islamic figures are different and plural about this context.¹³⁸ The material law which petty and absurd, is impossible to be enforce substantially and procedurally. If the instrument of law enforcement impose themselves to straighten the petty and absurd cases, so the use of power in forcing the maachstaat.

5. The Perda tried to enforce the moral norm by using the law norms. This is surely impossible. If it is forced so the serious violence of human rights would be happened, because it also would imply the legal uncertainty and inequality before law.

Article 10

- (1) The regional government and every Moslems responsible to develop the Islamic teaching, even in formal, non formal or informal ways.
- (2) The Islamic teaching is applied and developed in order to improve the faith and piety and increasing the knowledge of Islam, primarily to the young people (teenagers) and children.
- (3) The education of Islam as stipulated in verse (1) is implemented and improved as the enrichment terms of national educational curriculum in the subject of Islamic Study.
- (4) The Regional Government fostering and facilitating the implementation and improvement of Islamic Study in government schools or private schools which culminated by

138 As the sample, one of Indonesian mufasssir, Muhammad Quraish Shihab, said that base on the interpretation of al-Qur’am and Sunnah, the rule of Jilbab is not obligatory, and the other ulema said that covering the hair with using jilbab is an obligatory according to the Islamic teachings. The question is, in that different opinions, what is truly meaning of wearing jilbab according to the Islamic rule and teaching, base on the opinion of Perda?

Islamic Study's institution in basic or middle educational level through the local-content curriculum development.

- (5) Every Moslem should to implementing and supporting the activities of da'wah Islamiyah and syi'ar Islam in their owned respective community according to the capacity, science competence and ability.
- (6) The activity of da'wah islamiyah and syi'ar Islam as means as in the verse (5) implemented by noticing the provisions of the legislation.
- (7) The regional government supporting the activities of da'wah Islamiyah and syi'ar Islam.
- (8) The technique of implementation the field of educational subject, da'wah Islamiyah and syi'ar Islam further regulated by the mayor.

In the condition of founding the weaknesses in that Perda, particularly because of its unconstitutional and discriminative characters, the government of Tasikmalaya city seems persevere to force the implementation of that Perda through the unconstitutional way, namely by establishing the Polisi Syariah. The government of Tasikmalaya city seems 'persevere' to establish the 'Polisi Syariah,¹³⁹ even some of parties¹⁴⁰ rejecting the existence of Polisi Syariah to enforce that "defect law" Perda Syariah.

Base on the information Secretary of Regional Government of Tasikmalay, the employment status of Syariah Police is Civil Servants (PNS). They are recruited to be alerted in entertainment, and even in every corner of the city of Tasikmalaya. One of the tasks of Syariah

139 "Untuk penegakan Perda 12, nanti akan ada polisi syariah," Demikian Sekretaris Daerah Pemerintah Kota Tasikmalaya, Tio Indra Setiadi. See <http://www.republika.co.id/berita/nasional/jawa-barat-nasional/12/05/25/m4kzn6-tasikmalaya-bentuk-polisi-syariah> accessed on December 12, 2012.

140 Ministry of Internal Affairs, Gamawan Fauzi, stated in many occasions that Syariah Police in Tasikmalaya is unconstitutional. See <http://www.tempo.co/read/news/2012/06/07/063408933/Gamawan-Polisi-Syariah-di-Tasikmalaya-Melanggar>, accessed on December 14, 2012.

Police is monitoring and cracking down on, by giving the sanction that conform the regulation if proven guilty to that Perda. The Syaria Police will crack down on woman who aren't covering her aurat or wearing the sexy and tight dress or the clothes which showing off the woman's aurat.¹⁴¹

Not only in Tasikmalaya, Islamic nuanced regulation also founded in others city or regency in West Java. Some of them are:

- 1) The instruction of Sukabumi Regent Number 4 Year 2004 about the Moslem cloth usage for the students in Sukabumi.
- 2) The Perda of Cirebon Regency 77 of 2004 on the Education of Madrasah Diniyah Awaliyah
- 3) Perda of Bandung Regency 9 of 2005 on Zakat, Infaq, and Shadaqoh.
- 4) Perda of Sukabumi Regency 11 of 2005 on Controlling Alcohol Beverages
- 5) The Regional Regulation of Sukabumi Regency 12 of 2005 on Management of Zakat
- 6) The Regulation of Cianjur Regent Cianjur 15 of 2006 on Daily Uniforms of Government Employees of Cianjur.
- 7) Perda of Majalengka Regency of 2009 about Prostitution.

The amounts of Perda or rules in many forms – form letter, regulation of regents, mayors regulations, and so on -- is bad news for the national legal system that makes the Pancasila as the source of all sources of law. With those amounts of regulation with Islamic nuanced, will West Java becomes the Syaria Province? There's no data that could confirm it. But, just the same, since 2010, some of Islamic groups which generally radical, with strong desire supporting Bekasi Regent as Syaria City.¹⁴² This not only means to seed the discrimination

141 See <http://www.republika.co.id/berita/nasional/jawa-barat-nasional/12/05/25/m4kzn6-tasikmalaya-bentuk-polisi-syariah>, accessed on December 12, 2012.

142 At least the Islamic Congregations Congress in Bekasi declared the willingness

and intolerant – such as occurred in Bekasi and West Java in general, but also contrary to the prototype of Pancasila State.

3. Freedom of religious/ belief is Sacrificed

The basic analytical question that should be asked because of the rampant of Perda and other regulations with Syaria nuanced in West Java and also in other places in Indonesia is: what is the motive behind those some Islamic-nuanced regulations? The best answer is politicization – and also the accumulation of political fee, not the promotion of that Syaria itself.

It was at least corroborated by analysis and research Michael Buehler.¹⁴³ The research of Buehler talks sharia showing that the politicians which affiliating with the secular party – and have long career in bureaucracy – such as Golkar and PDI Perjuangan, including Indonesian Military (TNI) and Police of Indonesian Republic, which drafting, adopting, and implementing perdas and sharia regulation. In the le level of local representative board (DPRD) in all of provinces, the most industrious adopt syaria perda is faction of Golkar and PDIP – just except in Aceh.¹⁴⁴

In more detail, Buehler finds a constant relative method in drafting the regulation with sharia nunced in the level of regency/city government. Golkar, which was victorious in 2004, won with majority vote in the discussion of perda sharia draft in 4 (four) regencies won supported by the other factions in 10 (ten) regencies. So did PDIP. It was supported by other factions. PDIP won the election of 1999, fight for syharia perda implementation in 8 (eight) regencies. The two Islamic parties, National Mandate Party (PAN) and United Development

to make Bekasi becomes the Syaria City. See <http://www.sabili.co.id/indonesia-kita/kongres-umat-islam-bekasi-jadikan-bekasi-kota-syariah>, accessed on December 14, 2012

143 A Professor of Political Science in University of Northern Illinois, he doing a long research about Syaria rule in Indonesia, since 1999 until 2009.

144 Buehler, 2011, “Partainya Sekuler, Aturannya Syariah”, *Majalah Tempo*, Edisi 4 September 2011, page 74-75.

Party (PPP), scooped the most votes in Election of 2004 in 7 (seven) regencies, and in that places, those parties was succeed in drafting some Perda Sharia in the period 2004-2009. Meanwhile, the Prosperous Justice Party, which is considered as the most representing political Islam, did not have majority vote in majority even in one Regional Parliament – which implementing Perda Sharia. The brief said, secular parties also dominate the Regional Parliament of regency/city in issuing Islamic regulations.¹⁴⁵

How is background and partial affiliation of regional heads that Perda Sharia? From 63 of regional heads which signing and implementing at least one Perda Sharia since 1999 until 2009, 37 of them are bureaucrats which affiliated to Golkar. The 8 others are former officers of TNI and Polri. Another 3 (three) are the members of PPP, and one of them is a member of PAN. So, almost 60 percent of Regional Head which drafting Perda Sharia is bureaucrat that has relation to secular Golkar.

Why do elites in some regions affiliates to secular party in several area (provinces) supporting publishment of like this kind regulation? There are two analysis founded by Buehler.¹⁴⁶ *First*, combination of old fragment and new political dynamic has supported secular politicians to issuing Perda Sharia. Government in the past has stopping rebellion of Darul Islam (also PRRI / Permesta) quickly in the 1950s, but the Islamist networks that are formed during the uprising still awake. The coercive character of Soeharto regime suppressed this network becoming underground movement, for three decades. Political openness since 1998 make-fragments of Islamist network in the area resurfaced and got a space and new political means.

Second, implementation of regional heads and legislative elections in the region, have created new imperatives for the elite “old” New Order. The fight to be the head area, for example, requires maintenance of network in the region continuously, making the political process being expensive. Meanwhile the political parties have not enough fund

145 *Ibid.*

146 *Ibid.*

and means to support the candidate in process. Most of today's political parties have no constituents in the region. They just mobilize the masses during the campaign season. Those parties are impoverished, so it can not help the candidate in fulfilling the financial needs to joining political contestation. In fact, to some extent, they also become "sapi perah" of political parties.

This situation pushed the politicians to find alternative sources towards the power, that is base that capable to supplying political infrastructure, such as campaign team and access to the voters. The "personalization" of politics finally occurred in local level, where the politician relying on the private network influence. That personalization form is completely appearing in the provinces which have strong Islamic network. The politician is expected to accommodate the Islamist group's interests through fighting for the implementation of Perda Sharia as the reward of their political endorsement during the election.

In the province of West Java, the figure of Golkar used the Islamist network which have link to the figure of Darul Islam, Panji Gumilang. It's occurred in every moment of election since 1999. The same happened in South Sulawesi. Some of Golkar figures, including the governor and also the Chairman of DPP Golkar, Syahrul Yasin Limpo, have had persuaded the Implementation Committee of Sharia Islam to be a main organization for the ex-fighters of Darul Islam which established in 2000.

Besides that, Buehler said:

"The implementation of Perda Sharia contributes to open a media for politician to accumulate the needing fund, and open a space of Region's Heads also to spend their time in club for having entertainment. Road to the apparent enjoyment is founded in business world have opening the new paths to be passed by the local officials. Some of Perda Sharia created a de-facto monopoly on alcohol distribution. More than 20 regencies have implementing perda of zakat collecting. The Regions' Heads get a power which

almost unlimited in the context of division of religious “charity”.¹⁴⁷

The decision, referring to the research of Buehler, most of Perda Sharia was implemented by political adventure which affiliating to secular parties, in the context of new environment of more competitive local politic. Second, Perda Sharia is actually becoming the “transaction tools” of political elites to give political logrolling or to accumulate the new political resources – including the financial resources.

Meantime, those Perda Sharia are already sacrificing the freedom of religious/ belief and discriminating some of religious minority groups, and also gender. Because, the regulations with sharia nuanced gave ocean breeze (also the authority) to the local government to do repression on them. Even, those perda also provoke the “active participation” of Islamist groups, such as FPI, to do intimidation and anarchy on the groups which considered not “syar’i” – as oftenly happened as in some regions in West Java.

4. Remove Immediately: Moderat Ways

What the government should be done, particularly the central government, on this perda sharia, even in provincial level or level of regency/city? The efforts which should be done, is doing evaluation on those local regulations and do the elimination and cancellation of them. That elimination is done because of several reasons. *First*, the local regulation which connects or involves or arranges the regulations with religious contents that contrary to the regulations about local government which put religion as the matter and authority of central government.

Second, the discriminative regulation upon followers group of religion/belief which completely unconstitutionally. Because those regulations contra to the provisions stipulated in state constitution, the 1945 Constitution and legislations which in line with it.

That evaluation and elimination is the middle path that should be

147 *Ibid.*

taken, and it would be a little victory for appreciation and protection on human rights. Why should middle path? Because unconstitutionality performed by local government is a form of betrayal on Pancasila and state constitution. That argument could be a reason ouster of relevant region. If that ouster can be done, so it would give deterrent effect to the regional heads to take seriously in drafting perda sharia, moreover to relate it to political motives. If it is occurred, in the name of perspective of human rights and freedom of religious/ beliefs, clearly become the great victory that should be noted and celebrated.

Technically, the Government of West Java should do the data inventory on serious implication of those perda in order to support some of discrimination actions, intolerant and even the violence among people. After seeing the mess in some regions, which befall the victims of Ahmadiyah congregations, HKBP Filadelfia, GKI Taman Yasmin, and several others of minority groups, which inflicted by some perda with sharia nuanced, is expected that emerged initiative from Provincial Government of West Java to do adjustment through the national law provisions. If not, so the discrimination would be occurred, like what happened today. Should that situation be allowed? For sure it shouldn't. Because politicians is generally does not have logics and heart.

E. The Cristiani Sorrow in Aceh Singkil

The freedom of religious/ belief is a fundamental right of citizen which guaranteed constitutionally in the 1945 Constitution. This Constitutional guaranty is absolute in the context of Indonesia, the state of Bhineka Tunggal Ika.¹⁴⁸ A spirituality to appreciate and to tolerate the different religion/beliefs¹⁴⁹ is the fundamental actions which should be used to guidance the behavioral etics among the diversity. Those

148 Some parts of this book elaborate how Constitution took freedom of religious/ belief as one of the fundamental right that should be protected and assured. See the first chapter, especially on sub-title "Under State Constitution Shelter".

149 There is no "religions selvis" in the phrase of the nation-state founding father, Bung Karno. see. Lihat *Risalah Sidang BPUPKI dan PPKI*. Juga Alam, *Bung Karno Menggali Pancasila*. *Op.cit*

spiritualities ideally are growing subjectively in the self of government organizers of republic, from the President, Governor, Regent/Mayor and others.

All of elements of state apparatuses, in that Framework, should become main agents which could protect and guaranty the freedom of religious/ belief. Instead, the Government of Aceh Singkil Regency was showing the contrary behavior, to initiate and to perform intolerant action by sealing the churches/*undung-undung*/chapel house of worship of Christian in that region. The behavior and intolerant action which occurred in Aceh Singkil that initiated by the Government of Aceh Singkil Regency, in that Framework, is a poor performance of state administrator which should be condemned.

The sealing of 20 Christian's house of worship¹⁵⁰ arbitrarily done by Government of Aceh Singkil Regent, add to long list about the disobedience of state administrators on the state constitutions. For Christian in Aceh Singkil, the sealing action which is done by government becomes the culmination of intolerant action which usually befalls on Christian people.

The specific incident and intolerant action such as the closing and sealing the church in Aceh Singkil could be tracked from minor chronic that happened in around 2001.¹⁵¹ The closing of 10 units of Churches GKPPD in Aceh Singkil occurred on September 15, 2001. At that time, the public figures and religious leaders of Islam sent a letter to Heads of Regent Simpang Kanan, Gunung Meriah and Danau Paris. Those letters contains of their objections on Church's renovation in Kuta Kerangan and establishment of some churches: Siompin, Tuhtuhen,

150 Number of data from Aliansi Sumut Bersatu. But, media online *WASPADA mention* 17, related news could be see "17 Gereja Disegel", http://www.waspada.co.id/index.php?option=com_content&view=article&id=245319:17-gereja-di-aceh-disegel&catid=13:aceh&Itemid=26, accessed November 12, 2012.

151 See "Catatan Kronologis Penyegelan dan Rencana Pemerintah untuk Melakukan Pembongkaran Terhadap 20 Rumah Ibadah Di Kabupaten Aceh Singkil", <http://www.aliansisumutbersatu.org/2012/06/08/revisi-kronologis-penyegelan-20-rumah-ibadah-di-kabupaten-aceh-singkil/>, accessed on November 14, 2012

Kuta Tinggi, Siatas (Pertabas), Sanggaberru, Keras and others. The Christian at that time was renovating their church because the old one was not worth enough and they never have a permit to rehabilitate it.

According to some of Islamic figures, the action of closing church by Moslem was actually broke the agreement which issued on July 11 and October 1979. This problem is directly handled by Regional Consultative Forum/ *Muspida* Aceh Singkil Regency which led by the Drs Makmur Syahputra Bancin. The Regent invited some of Christian figures on October 9 and October 11, 2011. On that first meeting, the Christian have dialogue to *Muspida* Aceh Singkil about the objection of Islamic Leader in Simpang Kanan and Gunung Meriah District. In that dialogue, the Christian Leader stayed to preserve their willingness to continue renovation on church GKPPD Kuta Kerangan and their activities could be allowed like it should. But, *Muspida* Kabupaten Aceh Singkil made a conclusion in accordance with what they decided in the dialogue with Islamic Leader. That decision was applied by *Muspida* to the Christian in Aceh Singkil.

Muspida Aceh Singkil and Islamic Leaders gave a license to the Christian in Aceh Singkil to renovate 1 (one) unit of Church GKPPD di Kuta Kerangan, so the renovation process can be continued. The license also given to 4 (four) units of *undung-undung* (kapel/house of worship) such as the Church in Sub-Districts Lae Gecih, Biskang, Sukamakmur, and Keras.

Whereas the other churches, such as GKPPD Siatas, GKPPD Kuta Tinggi, GKPPD Tuhtuhen, GKPPD Situbuhtubuh, GKPPD Sanggaberru, GKPPD Daling Dangguren, GKPPD Mandumpang, GKPPD Siompin, GKPPD Guha, and GKPPD Uruk Perjejeran must be closed. Besides GKPPD churches, 3 (three) units Catholic church in Napagaluh, and Mbalno Danau Paris District, Catholic church of Gunung Meriah, 3 (tiga) units Charismatic church, and 1 (one) HKI church must be closed also. The total is 17 Churches which must be closed.

On *October 11, 2001*, *Muspida* Aceh Singkil invited Islamic Leaders and Christian Leaders, and asked them to sign the draft was

prepared by *Muspida* Aceh Singkil namely: “Joint Agreement of Islam and Christian in Kristen Kecamatan Simpang Kanan, Gunung Meriah, and Danau Paris Kabupaten Aceh Singkil”. That draft will be signed by the Leader of Moslem and Christians and also *Muspida* Aceh Singkil.

9 (nine) years later, on October 26, 2010, The Regent of Aceh Singkil Makmur Syahputra sent a letter to the Minister of Internal Affair, Minister of Religion, and Minister of Justice and Human Rights of the Republic of Indonesia about the Clarification on Establishment of House of Worship (Church) in Aceh Singkil Regent.

The disallowance of church, sealing, and closing which occurred and threat of demolition of the church was resulted Christians and religious minorities in Aceh Singkil feel pressured and threatened. That reality was completely making the rights on guaranty of freedom of worshipping according to their religions and beliefs cannot be fulfilled, even deprived by the policy maker. The deprivation of that freedom is continuing until today. Since April 2012 the case of freedom of worshipping deprivation still occurred and even raise the culmination because performed massively through the policy and quantitatively become the most of sealing case happened in Aceh Singkil.

This following recent chronology of intolerant action befalls on Christian in Aceh Singkil in 2012 which reported by North Sumatra United Alliance/ *Aliansi Sumut Bersatu*.¹⁵²

April 28, 2012:

Widely circulated short message (SMS) among people in Aceh Singkil, which reads: “It is expected to Muslims in Aceh Singkil wherever they are, it may be so pleased to come on Monday, April 30th, 2012 at 08.30 pm, Regent Office of Aceh Singkil to join a peaceful action pointed aimed to Pemda Aceh Singkil to dismantle buildings without permission. The participant required to wear white clothes and carrying

152 See “Catatan Kronologis Penyegelan dan Rencana Pemerintah untuk Melakukan Pembongkaran Terhadap 20 Rumah Ibadah Di Kabupaten Aceh Singkil”, *op.cit.*

weapons are not allowed (Please to spread this message to Babinsa. Please do not be provoked).”

April 29, 2012:

On Sunday night, April 29, 2012, the Church Assembly held a meeting in Gereja Kristen Protestan Pakpak Diari (GKPPD) Kuta Kerangan to discuss about the action which should be taken to face the demonstration that probably occurred as planned as on April 30, 2012. In that meeting, it is emphasized to avoid the anarchy actions if the people protesting their disappointment aimed to the government which did not fulfilling their demand and then tried to damage the churches. What would be done effort is forming a guarding team of the church, by asking one or two personnels to guide it alternately.

April 30, 2012:

An entourage people went to Kecamatan Kota Singkil (the Capital of Kabupaten Aceh Singkil) for joining the peaceful action (demonstration).¹⁵³ According to some witnesses, their amount is more than 300 peoples. In fact, another witnesses said that the people is almost 1000 people. This consideration depends on the report circulating that people mobilization is approximately 100 personnels per-each district (*kecamatan*).

When arriving in the office of Regent, people giving speeches to sue the government assertiveness of Aceh Singkil to imply the agreement of 1979¹⁵⁴ which allows 1 church and 4 *undung undung* (small mosque) in

153 Author has noted there is mention that action mass are the members of Front Pembela Islam (FPI) Aceh Singkil. See, J. Anto, *Menanti Wajik dan Kembang Goyang di Aceh Singkil*, http://www.analisadaily.com/news/read/2012/07/21/64155/menanti_wajik_dan_kembang_goyang_di_aceh_singkil/#.UOXipOS6e8U, accessed on December 13, 2012

154 1979 Agreement was made at the time to prevent the conflict between Muslims and Christians, cause of the church burning occurred. Ironically the contents of the agreement mention restrict the establishment of churches and ban visits Christian clergy (priest / pastor) to Singkil area to carry out their duties.

Aceh Singkil.¹⁵⁵ They are very disappointed to the institution of FKUB and MPU which have no action to defend of Islam, but let the churches established everywhere.

After giving speeches for 1 hour, AKBP Bambang Syafrianto SiK, Regency Police Chief/ *Kapolres* also performs to suggest: "How about we give a tolerant time for the Christian to dismantle their not-licensed house of worship in 3 x 24 hours, and if they ignored it, so we could forming a team to do that?" That demand directly agreed by the demonstrators. That statement became a decision, with the reason that action is one of the applications of regulation on demolition of illegal buildings, but before that demolition will be done, some of Islamic figures together with *muspida* and district leadership assembly/ *muspika* give the explanation about that plan to the Christian who owned those churches.

At the same day, the Regent of Aceh Singkil then issued a decree number: 451.2/450/2012 which aimed to The Chairman of Developing Committee/Church Leader (*Ketua Panitia Pembangunan/Pimpinan Gereja*) about the information of regarding notice that on May 1, 2012 at 09.00 a.m will be deployed a team of building house of worship in the area of Aceh Singkil Regency to perform demolition/sealing the non-licensed house of worship establishment.

May 1, 2012, at 11.00 AM:

The group of *muspida* and *muspika* together with FPI and public

The 1979 agreement was later confirmed in the Joint Statement of the People of Islam and Christianity in 2001. Based on the information obtained from witnesses living in the Joint Statement, it was revealed that the Christians were forced to sign a joint statement that the government has drafted before being signed. See cronology Aliansi Sumut Bersatu version. *Op.cit.*

155 The Church has existed before the SKB 2 and are now estimated there are 1700 Christian families (10,000 people). Population growth has resulted in the increase of the church, although not recognized and never get permission. *Ibid.*

order agency (*Satpol PP*) move to Simpang Kanan District and get in the yard of Church GKPPD Siatas which was crowded by the congregations since the morning. The team then asked about the Construction Permits (IMB). The team also asked about the donation sources of the building process, is it from inside or outside the country, and the congregations said no. The team suddenly wants to seal that church. Watching the action about the sealing process, around of 60 mothers crying hysterically, even 1 of them is finally comatose.

Relating to that, the Chairman of Developing Committee, Jirus Manik and the Congregations' Teacher of St. Norim Berutu with the Kepala Desa Siatas and Pertabas performs to give a speech. He said: "It would be nice if the church is not being sealed, because where are people going to worship". Then, he also stated that: "If the church is sealed, it means that the GKPPD Siatas and the people surrounding being killed, and it could affect so badly, the people will have not worship and the would be misguided." Those both Kepala Desa also stated that there's no problem happened in that village because the people inside have a good relationship, both Christian and Muslim. The harmony among the people have established since tens years ago. There are another more important problem which should be handled, such as gambling and immorality, not about the church.

To see the strict supervision of that congregations, the chairman of monitoring team asked the Chairman of Developing Committee with the Pilgrim's Teacher and 3 (three) of Head Villages (Siatas, Pertabas and Kuta Kerangan) to meet the Regent tomorrow, on May 2, 2012 at 10.00 a.m. The sealing process happened on that day be cancelled because facing the resistance from the congregations, particularly the mothers of GKPPD Siatas.

In GKPPD Biskang (Danau Paris District) the monitoring team also welcomed by the congregations and their resistance. The Priest Ien bor Sinamo explained that because of the room's capacity which not allow to accommodate the worshipping activity, so that the church should be renovate to be enlarged. The disallowance of the church's activity contradicts to Pancasila and content of the 1945 Constitution.

By hearing the resistance from people and church's officials, the team leaves the church to Sikoran Village and directly sealing the Catholic Church there by saying that the church cannot be used as the house of worship because it is not stipulated in agreement of 2001.

After knowing the information about monitoring on some Churches (GKPPD Siatas, GKPPD Biskang and Catholic Church Si Koran) the Leader of GKPPD Ressort Kuta Kerangan and GKPPD Ressort Kerras invited the pilgrim's teachers and society figures to discuss about solution in facing the monitoring program which done by Muspida, Muspika, Municipal Police and FPI Aceh Singkil. That meeting was held on Monday, April 30, 2012 at 05.00-10.00 p.m, located in GKPPD Kuta Kerangan. That meeting is attended by the congregations, the Catholic Church official, HKI and Jemaat Kristen Indonesia (JKI). Through that meeting, discussed and dealt several things:

- Every congregation should welcome monitoring team with good and friendly, not anarchist, and willing to tell about the story of their churches.
- Every congregation is expected to submit the copy of Identity Card of people and prepare the permit aimed to the Regent. It is purposed to answer the monitoring committee that the building permit is under process.
- In that meeting also agreed that the leaders and congregation's teachers to meet the call of Monitoring Team which asking to come to Regent Office of Aceh Singkil on May 2, 2012. Besides those three Village Chiefs who were called, the priest is also asked to attend that invitation.
- On Wednesday, May 2, 2012, every district was celebrating the National Education Day, so the departure to Singkil forced to wait those three Village Chiefs until finishing that celebration. They finally go Singkil with the priest. They departure at 10.30 a.m and arrive in Regent Office of Aceh Singkil at 11.30 a.m. That meeting is followed by 9 persons from church representation (but 3 Village Chiefs have joined) and led by the regent and accompanied by Kapolres, Kasdim,

Head of MPU, Representation of DPRK Aceh Singkil and the staff of Regency Government Aceh Singkil.

That sealing action was finally done by the government of Aceh Singkil Regency on 15 churches and 1 house of worship of local sect/belief of PAMBI on May 1, 2012 and May 3, 2012. The government's program to dismantle those churches, started by sealing, due to the pressure of Islamic organization's mass which identified them selves as Islam Defenders Front (FPI).

Until tragedy chronology of Aceh Singkil is released North Sumatra United Alliance (*Aliansi Sumut Bersatu*), on June 8, 2012, sealing had been done to the 20 churches. Almost all churches are Christian churches GKPPD. Here are the names of these churches with sealing date:

1. GKPPD Biskang in Nagapaluh, on May 1, 2012.
2. Catholic Church in Napagaluh, on May 1, 2012.¹⁵⁶
3. Catholic Church in Lae Mbalno, May 1, 2012.
4. GKPPD Siatas, on May 1, 2012.
5. GKPPD Tubuhtubuh, on May 1, 2012.
6. GKPPD Kuta Tinggi, on May 3, 2012.
7. GKPPD Tuhtuhen, on May 3, 2012.
8. GKPPD Sanggabru, on May 3, 2012.
9. JKI Kuta Karangan, on May 3, 2012.¹⁵⁷
10. GHKI Gunung Meriah, on May 3, 2012.¹⁵⁸
11. Gereja Katolik Gunung Meriah, on May 3, 2012.
12. GKPPD Mandumpang, on May 3, 2012.
13. GMII Mandumpang, on May 3, 2012.¹⁵⁹

156 Additional note: Catholic church different from the other churches because the Catholic religion different from Protestants. Catholics are also minorities in Aceh Singkil.

157 JKI (Jemaat Kristen Indonesia) is one of protestan church. The new church entered on 2003.

158 GHKI (Gereja Huria Kristen Indonesia), included protestan church.

159 GMII (Gereja Missi Injili Indonesia) included protestan church. The church entered into Singkil average over 2000.

14. Gereja Katolik Mandumpang, on May 3, 2012.
15. GKPPD Siompin, on May 3, 2012.
16. GMII Siompon, on May 3, 2012.
17. GKPPD Guha, on May 3, 2012.
18. House of Worship of PAMBI, on May 3, 2012.¹⁶⁰
19. GMII Ujung Sialit, on May 3, 2012.
20. GKPPD Dangguren, on May, 3 2012.

1. Aceh Singkil Regency Demography

Aceh Singkil Regency is one of regencies in the province of Nangroe Aceh Darussalam. The Regency of Aceh Singkil is an expansion region (*wilayah pemekaran*) from South Aceh Regency and part of its region located in National Park of Leuser Mountain. The district also consists of two regions, namely the mainland and islands. Islands that are part of the district of Aceh Singkil is Kepulauan Banyak. Singkil district capital lies at Singkil.

Singkil consists of 11 districts. Here are the names of the districts in Aceh Singkil: 1) Danau Paris, 2) Gunung Meriah, 3) Kota Baharu, 4) Kuala Baru, 5) Pulau Banyak, 6) Pulau Banyak Barat, 7) Simpang Kanan, 8) Singkil, 9) Singkil Utara. 10) Singkohor, and 11) Suro Baru.

Singkil itself locates in track linking western Sumatra Banda Aceh, Medan and Sibolga. Over mountainous track is needed to be much improved road access in order to overcome the remoteness of the region. In the plan, the Port Singkil can be used as a transit port for the line west of Sumatra.¹⁶¹

Christianity first came to the area in 1930 Singkil via an evangelist who came from Salak Pakpak Bharat, named Evangelist IW Banurea. In 1932 Evangelist working with Socfindo plantation established the church, and then one by one the villages visited and formed churches.

160 PAMBI (Persatuan Agama Malim Baringin Batak Indonesia), local religion in Aceh Singkil

161 See “Kabupaten Aceh Singkil”, http://id.wikipedia.org/wiki/Kabupaten_Aceh_Singkil, accesed on 14 November 2012

Up to now there are approximately 1,700 households or about 15,000 people who converted to Christianity in the region of Singkil and Subusalam. In the number of Christians is significantly encouraged the church to increase the number of houses of worship in order to answer the needs of his people in doing worship.

Inter-religious life in Singkil runs peacefully since the first time Christianity came to the region Singkil. Over the decades, from generation to generation, relations between the Muslims-who generally are Singkil tribe, and Christians-the majority are ethnic Pakpak, quietly flowing river basin flows through Cinendang which passing Aceh Singkil from Phakpak Barat.

Small frictions due to the cultural differences have occurred, but not to cause the horizontal conflict, let alone social cohesion tore citizens. Just a lot of evidence of cultural integration, and local wisdom of life, and passed down generation predecessors, both indigenous and immigrant reflecting peaceful relations in the midst of differences.

A number of villages' names in Aceh Singkil are taken from Batak language Pakpak. Such as Kampung Kerras which in the language of Pakpak means fruit-pecan crop that was once widely cultivated by citizens there, before switching to palm oil. There is also the village of bamboo reed means. There are many other names that refer to Kampung culture Pakpak tribe. Inhabitants of the village are now not one hundred percent Pakpak tribe, but had mingled with Singkil tribe, and other tribes such as Toba Batak migrants, Nias, Java and Minang.

The vilage's name was derived from Pakpak tribe identity also never provokes protest, objection or appeal. No wonder the few villages in Aceh Singkil is now inhabited by a variety of people of different races and religions, though in every village there is always the dominant tribe.

Several large rivers that cross the area Singkil also use a lot of the names are derived from tribal culture Pakpak. For example Lae Silebuh, or Cinendang Lae, which in light of the Pakpak means. The rivers in Singkil, was tipped at Pakpak Bharat, and empties into the sea of Aceh Singkil and Pulau Banyak.

There are also cultural heritage harmony treated by citizens of Aceh Singkil, that is a tradition to eat together in the traditional market to celebrate the coming Eid or New Year-even after political liberalization began in 1998 this culture are beginning to be forgotten. The meal was organized by interfaith leaders, village heads and community leaders to invite all religious people, not least the followers of faiths.

The event is done by holding the mat in the middle of an existing building in the village market. Interfaith leaders will sit in the middle of the mat, surrounded by people respectively. Before the feast begins, those interfaith leaders were giving a speech. It contained advice to always keep the harmony and unity to promote the common welfare.

In addition to the culture of eating together, there is a tradition of the people who showed the close bond of the relationship between them, the tradition of visiting each other. When citizens are Muslims celebrate Eid-ul-Fitr, their Christian neighbors will visit Muslim homes by bringing black rice and palm sugar. Rice entered the short horns as high as approximately 10 cm. Rice horn is made of woven bamboo. Black rice and sugar is raw material for making diamond-cake usually served in Singkil Muslims celebrates Eid time.

Similarly, when Christians celebrate the New Year, Muslims usually visit their neighbors by bringing flour and cooking oil. Flour and cooking oil are used to make fireworks shake-cake to be one compulsory course during the celebration of the new years. That is a sample of citizen's wisdom which live in different ethnic and religious in Singkil to build brotherhood among them.¹⁶²

However, some of the events and acts of intolerance also happen to Christians in Aceh Singkil. North Sumatra United Alliance noted some events and actions experienced by Christians, among others, as follows:

- 1) In 1961, sprung "the long hair man" (because they had long hair like women) in Christian worship and asked that the church was

162 See, J. Anto, *Menanti Wajik dan Kembang Goyang di Aceh Singkil*, http://www.analisadaily.com/news/read/2012/07/21/64155/menanti_wajik_dan_kembang_goyang_di_aceh_singkil/#.UOXipOS6e8U, accessed on 13 December 2012

closed, because this region is the region of Aceh which leaves no place for the citizens of other faiths. Indeed, their activities until they don't want to continue.

- 2) In 1968 Daud Beureuh came to Lipat Kajang and sub-district Rimo, in his speech said: "For the church closed and discontinued activities Christians. The reason is because this area is an area where the population of Aceh must be a Muslim. Daud Beureuh's speech result, make some Christians had to evacuate themselves to the area of North Sumatra, for fear of forced entry into the Islamic religion.
- 3) In 1979 incident between Muslims and Christians occurred. The incident was triggered by the establishment of the Catholic churches in Mandumpang, and coupled with the arrival of missionaries from the *Gereja Tuhan Indonesia* (GTI) from Medan that aims to establish a church in Mount Meriah. By looking that situation, Muslims in Simpang Right offended and angry. Finally the Catholic Church in Mandumpang development and construction of the church in the village of Gunung Meriah GTI thwarted. GKPPD church in Siatas, GKPPD Sanggaberru, GKPPD Mount Meriah, was also burned. To see the people's anger there and to prevent the things that are not desirable, almost all Christians at the time of Singkil was evacuated to North Sumatra during the 4 months of leaving their fields and houses and livestock have certainly lost during evacuation. At that time thanks to the cooperation of the Government of Aceh and North Sumatra Government incident was reconciled by making a pledge of peace. The pledge signed by 11 Muslim leaders and 11 Christian leaders and was attended by the officials of Level II South Aceh, second level of regional consultative forum/ *muspida* of Central Tapanuli and Dairi, on October 13, 1979 in Kajang Fold. The contents of harmony pledge reads as follows:
 - Muslims and Christians in the District of Simpang Kanan ensure orderliness and security and the establishment of the region and religious harmony.

- Asking the government to crack down all of the perpetrators using the applicable law who become the vandals of orderliness and security even they are Muslim or Christian.
- The establishment/renovation of churches and other cannot be begun until accepting the legacy from Local Government Tk II in Aceh Selatan, accordance to the material of joint decree of Minister of Religion and Minister of Internal Affairs Number: 1 year 1969.
- Those violation and agreement/statement could be punished through the applicable law.
- We do not accept either visit a priest or pastor or clergy who give lectures / bath / baptism / sacraments to his people in the District of Simpang Kanan, except already got permission from the local government.

After the peace process was complete, the Christian go back to their place of refuge. But just the same, the children of the Christian congregations do not accept the Christianity education, but they are learning Islamic education. This is occurred until today, even in Elementary School, Junior High School and Senior High School do not accept that lesson. When the time of receiving report in every semester, the children should grieve because achieving low remark of that lesson, and it supports them to follow the Islamic education to get higher remark. Moreover, at least three subjects which relating to Islam, such as History of Islamic Civilization, Arabic, and Islamic Study. Actually, there are some teachers which placing to teach Christianity Education, but by the Head master, they are required to teach other subjects.

- 4) On Monday, March 27, 1995, around 02.00 a.m, the combustion effort of undung-undung (house of worship) Kristen GKPPD Penanggalen Penanggalen District was happened. But blessing the people, that house of worship can be saved. That incident was reported but the perpetrator never be known.
- 5) On Friday, March 21, 1997 around 02.30 a.m, the combustion

effort also happened to the church of GKPPD Sanggaberru, Gunung Meriah District. But blessing the people, the fire can be extinct.

- 6) On Monday, July 20, 1998 also in the early morning, at 02.30 – 03.30 a.m., the combustion happened of the church GKPPD Siompin, GKPPD Mandumpang and GKPPD Lae Gecih. And, until now the perpetrator has never been known.
- 7) On Tuesday, July 21, 1998 the combustion also happened on the church GKPPD Gunung Meriah desa Suka Makmur. The fire was extinct by itself. The perpetrator also has never been known until now.
- 8) The last incident of combustion happened on September 1, 2003 on a building which established as a house of worship namely Charismatic Church. The incident occurred firstly while the Priest Saragih has a plan to do revival meetings (KKR) in the open space with usical accompaniment, such as *keyboard*. Some days before, the priest distributed invitations to participate in that program, but yet somehow, one of the invitations achieved by a Muslim. It was sparking outrage that person. He accompanied by around 500 people, came to the location when the program run and burning the building and also the stuffs of KKR such as 2 units of motorcycles.

2. Mapping the Actors, Victims and the Response of Government

The sealing of churches in Aceh Singkil massively are done in several days by the local government, in collaboration with another governmental apparatuses (public order agency/ *Satpol PP* and police department), with Islam Defenders Front/ *Front Pembela Islam* (FPI) also. The negative initiative of the the regent was highly visible too striking. That could be seen through the statement of the Regent in the discussion of *stakeholders* in the meeting on May 2, 2012:

Singkil society that is very tolerant society, proved during decades that various religious communities living in the area, although there are several times as ripples occurred in 1979 and 2001, but that ripple occurs because the Christians violated the agreement made with the agreement made / shared in 1979 and 2001 (the agreement was signed by Muslim and Christian leaders who only tolerate one church that has had a license and 4 undung-undung a level with *musholla* (small mosque).

The privileges of Aceh which recognized by government, making this provinces become different from the others, including in managing the house of worship. It's proved that even there is joint decree between two ministries, but Governor Regulation/ *Pergub* is also established. So, the worshipping house establishment is really arranged not free.

On April 30, 2012, the peaceful action of Muslim, asks the agreement to be enforced again, and the damage the churches without lisenche. In relation to it, who violates that agreement will get sanction and you as the Christian should damage the churches, and if they ignored what decided in the colloquy, we will destroy all of it in 2 weeks. This is final decision.

Today, we won't to have a dialogue, but explaining about that plan and schedule of when and which church are going to be destroyed.

That's it.

Regency police chief/ *Kapolres*, public order agency/ *Satpol PP*, and also the governmental apparatuses in the level of regional consultative forum/ *Muspida* and district leadership assembly/ *Muspika* are the actors which back-upping the violation on freedom of religious/ beliefs in Aceh Singkil. The statement of *Kapolres* even in giving the response on oration of demonstration in April 30, 2012 and in the meeting session on May 2, 2012, shows disobedience of the security apparatuses in the Framework of the Unitary Republic of Indonesia/ *NKRI*. Instead of nurturing and protecting all of citizen, *Kapolres* take its position as

the problem I tragedy of violation on freedom of religious/ beliefs in Aceh Singkil.

The actor which is also important in tragedy of Aceh Singkil is *FPI* of Aceh Singkil. *FPI* is an intolerant society group which provoking the situation, one of their actions is through the mass mobilization on April 30, 2012. Besides that, the involvement of *FPI* as the meeting element related to the sealing and demolition plan which performed by local government, showing how important the role of *FPI*.

FPI of Aceh Singkil in this context cannot be or considered as not a representation of Aceh Singkil's society generally. Because essentially, almost all of society in Aceh Singkil do not want to make peace but they don't want the religious conflict occurrence which supported by the sealing action or such, also happened.

Some of Aceh residents want that the sealing case of some Catholic and Protestant churches in Aceh Singkil would not spread everywhere which would finally create the religious conflict hopefully. "The Government should be solving the problems which happened in Singkil. Please help us to keep the image of Aceh to remain well," said Munira, a resident of Banda Aceh. Munira hopes that the sealing action on house of worship in Aceh Singkil could be handled wisely by the government without hurting the pilgrims of a certain religion.¹⁶³

"...don't have that conflict of religion happened in Aceh and all of its problems, extend to other area," said one of the Islamic School's teacher. The same thing also explained by Asnawi. He hopes that all of people could drive themselves and could not aggravate the situation in Aceh Singkil. "Don't have the religious var would be happened there," said one of a native resident from Aceh, Asnawi.¹⁶⁴

The jurical basic of intolerant action which performed by the

163 Release news sinarharapan.com.

164 See "Warga Aceh Tak Ingin Konflik Agama Terkait Penyegehan Gereja", <http://indonesia.ucanews.com/2012/05/09/warga-aceh-tak-inginkan-konflik-agama-terkait-penyegehan-gereja/>, accessed on 12 November 2012

actors is problematic and intolerant regulations. The basic which used in sealing practice by the apparatuses is the Joint Decree of Two Minister about House of Worship; Governor Decree No 25/2007 about the Permits of Constructions of House of Worship in Aceh, Qanun Aceh Singkil No 2/2007 about the Construction of House of Worship, and joint agreement between Islamic and Christian Community from three districts in Aceh Singkil (Districts Simpang Kanan, Gunung Meriah, and Danau Paris which signed on October 11, 2001. The entire legal basis of administrative behind that sealing action, significantly contrary to the constitutional guaranty about freedom of religious/ belief which stipulated in the 1945 Constitution and the guaranty in Law 39 of 1999 on Human Rights and Law 12 of 2005 on Ratification of International Covenant of Civil Rights and Politics.

How is the response of Central Government? The Vice Minister of Religious Affairs Ministry, Nazaruddin Umar said that he was so surprised by hearing that sealing. "I am surprised. This incident is rarely occurred in Aceh." The Acehnese, according nazaruddin, is known as very tolerant in interreligious relationships. "Me, as a person and the Vice Minister of Religious Affairs Ministry will be proactive to investigate what was truly occurred there".¹⁶⁵ That surprise and distrust have no meaning to solve the problem in Aceh Singkil and the enforcement on freedom of religious/ beliefs in Indonesia generally.

Seeing the overall construction of this case, there are some notes which taken to be highlight necessarily related to the problems and handlement in Aceh Singkil.

First, The Local Government and the apparatuses in Aceh Singkil should put themselves as the guardians and protector of whole of citizen in Aceh Singkil, particularly in order to enforce the guaranty of freedom of religious/ beliefs as the basic rights of Indonesian, which clearly guaranteed by the state constitution.

165 See "Warga Aceh Tak Ingin Konflik Agama Terkait Penyegehan Gereja", <http://indonesia.ucanews.com/2012/05/09/warga-aceh-tak-inginkan-konflik-agama-terkait-penyegehan-gereja/>, accessed on 12 November 2012

Second, the government should take a strict action to enforce the applicable laws to face the intolerant society groups which disrupting the common benefit of people in order to build the orderliness and peace among society. The government should be better than the civilian army which aggressively provoked to do persecution on the religious group/minority beliefs.

Third, all of the problems connected to the freedom of religious/belief should be turned back to the 1945 Constitution and the congruent legislation with the constitutional guaranty of 1945 Constitution, such as Human Rights legislation and Ratification Constitution of International Covenant of Civil Rights and Politics. All of technical-administration provisions which deviate or not in line with the 1945 Constitution and Laws which derived from the 1945 Constitution should be considered against the constitution and null of void.¹⁶⁶ Much less than the manuscripts which subjectively forced by the majority on minority religion/beliefs, is completely cannot be used as the baselines for public figures to take some actions in the term of public policy to solve the problems related to the freedom of religious/ belief.

Fourth, Central Government should take a proactive step in order to overcome every problem related to the violation on freedom of religious/ belief which occurred in district or province, beause including in decentralization design in Indonesia, the religion is the

166 In that framework, the taken step of Kanwil Kemenag Aceh to force intolerant PBM and Pergub completely put the regulation of administrative-technic above the UUD and UU. Representing Kepala Kantor Wilayah Kementerian Agama Aceh, Juniazi SAg MPd, said that Religious Harmony Forum of Kanwil Kemenag Aceh offered a solution to solve the problem of House of Worship in Singkil refers to PBM Menag, Mendagri, and Pergub Aceh Number 25 Year 2007 About Worshipping House Establishment. Pemkab Singkil, according to Juniazi, should referring to this rule. Non-Muslim citizens whose their worshipping house was being sealed also should submitting a building permits accordance to PBM and Pergub. "I am sure that if all of the people here obeying this ways, all of them would not be object," Juniazi said. See "Penyegehan Gereja di Singkil harus Merujuk PBM dan Pergub", <http://aceh.tribunnews.com/2012/06/20/penyegehan-gereja-di-singkil-harus-merujuk-pbm-dan-pergub> , accessed on November 13, 2012.

central level affairs, not the local affair or authority in the Framework of local autonomy. On the top of that, in the context of violation on constitutional provisions performed by local government of Aceh Singkil, the central government should take an administrative and politics actions to give a sanction the apparatuses even in just the reason of law enforcement and its constitution.

Fifth, in the context of common solution drafting and agreement which related to the raising problem, the civil engagement from all of intolerant civil society elements, with or without local government involvement, is necessary. The tolerant group should give aspiration more actively to the stakeholders. In order to build social order, the stakeholders should involve that group also in every what they take as the policy, and not permissively trigger and worsen the conflict. The stakeholders should engage the intolerant group which moreover known as the group with bad track record in some regional intolerant cases, that completely performed intolerant actions, both softly or hardly.

Sixth, political elites now and in the future, should not do the politization on religion/belief which leads to conflictual cleavage to reach their political interests only.¹⁶⁷ The peace and social order in the Framework on freedom of religious/ belief is more important than momentary interests of political elite, let alone in the context of political contestation in local level.

F. Citizen (Without) Law: GKI Taman Yasmin Case

Bogor, called as rainy city. That epithet because of the rainfalls of that city is high. Now, this city has another predicate, namely ‘intolerant

167 The head of the Catholic Community Advisor, Office of the Ministry of Religious Affairs in Aceh Province, Baron Ferryson Pandiangan, sealing suspect churches occurred in Aceh Singkil also associated with a frenzy where the local elections in Aceh regent candidate elected in the elections and more “friendly” the Christian communities. See “17 Gereja di Aceh Disegel”, http://www.waspada.co.id/index.php?option=com_content&view=article&id=245319:17-gereja-di-aceh-disegel&catid=13:aceh&Itemid=26, diakses pada 12 November 2012

city'. For the minority group which being the victim of violation on freedom of religion and most of human rights activists, Bogor is the 'unfriendly'. The serious report relating to the intolerant practices occurred in Bogor is the case of GKI Taman Yasmin. That intolerant action was not done by part of majority group on the minority one by hindering them to worship, but also 'being worsen' by intolerant actions performed by the apparatuses in forms of defiance of *inkracht van gewijsde* of court's verdict which give juridical basics to worship an to establish the house of worship for the congregation of GKI Taman Yasmin Bogor. The cold Bogor was "hot" in violation on freedom of religious/ beliefs.

The city is situated in the western part of Java island, about 60 km south of the capital Jakarta and 85 km northwest of Bandung, the administrative center of West Java Province. Bogor spreads over a basin near volcanoes Salak, which peaks at about 12 km south, and Mount Gede whose top is 22–25 km south-east of the city. The average elevation is 265 meters, maximum 330 m, and minimum 190 meters above sea level. The terrain is rather uneven: 17.64 km² of its area has slopes of 0–2°, 80.9 km² from 2° to 15°, 11 km² between 15° and 25°, 7.65 km² from 25° to 40° and 1.20 km² over 40°; the northern part is relatively flat and the southern part is more hilly.



There is no law. Bogor City Government disobedience on Supreme Court verdict and Indonesia Republic Ombudsman recommendation is a real form of discrimination upon GKI Yasmin followers, Bogor. (Picture :<http://genuardis.net>).

The soils are dominated by volcanic sedimentary rocks. Given the proximity of large active volcanoes, the area is considered highly seismic. The total area of green space is 205,000 m², of which 87,000 m² are Bogor Botanical Gardens, 19,400 m² are taken by 35 parks, 17,200 m² by 24 groves and 81,400 m² are covered with grass.

According to the population census in 2011, the population of Bogor city was 967.398 people. Men are 493.761 and women are 473.637. These residents of Bogor city which spreads into 6 sub-districts, have growth 2,39 percent per-year in last decade. This population growth is the highest compared to another sub-districts, which just 3,43 percent.

The population census in 2011 also showing the highest residential deployment or distribution of Bogor is Bogor Barat sub-districts, it is same with the census on 2010, 214.862 peoples, and the lowest amount of population is in the sub-district of Bogor Timur with 96.617 jiwa. By the 111.73 kilometer square area and inhabited by 967.398 peoples, so the population average of Bogor is 8.164 people per-kilometre square. The sub-districts with highest population is Bogor Tengah sub-district, 12.564 peoples/km², and the lowest population is Bogor Selatan sub-district, just 5.983 peoples/km².

The religious activities in Bogor City supported by religious facilities, such as 742 units of mosques, 591 units of musholla, 29 units of Protestant churches, 8 units of Catholic churches, 3 units of Hindu's house of worship (pura), and 9 units Buddha's house of worship. The population base on the religion, such as; Muslim 800.926 peoples, Catholic 23.350 peoples, Protestant 33.798 people, Hindu 4.669 peoples, and Buddha's pilgrims 9.933 peoples. And base on the information of Central Bureau of Stastic, there's no Konghucu pilgrims in Bogor.

From the resident's diversity, it could be a beautiful colorful mosaic. Moreover in the context of Indonesia, Pancasila state with slogan *bhinneka tunggal ika* which the meaning substantiation is, even the true Indonesian condition has differential tribes but united in one

name of Indonesia. But the fact is, intolerant on minority group is repeatedly happened in Bogor.

The monitoring of some incidents—including the case befalls GKI Taman Yasmin, which reviewed in this sub-section—is intended to remain the society about the government promise which should be asked. The ‘forgotten disease’ which is suffered by most of Indonesian people, at least should be treated by the documentation and publication of the actual and factual situation of freedom of religious/ belief. Public should give pressure and attention on negligence performed by government in protecting its citizens, especially in allowing the people to worship according to their religion and belief which clearly guaranteed by the state’s constitution.

1. The Ban of GKI Taman Yasmin

GKI (*Gereja Kristen Indonesia*) Taman Yasmin is “Prospective Camp”—in the meaning that that church has let to be independent yet by the main church; if in the context of HKBP is called as “Pagaran”, in the context of GPIB called “Prospective Followers”),¹⁶⁸ which build in a plot of land in Taman Yasmin Housing, Bogor. The document of church and information from some informants of GKI, the court decided that their church is no longer able to accommodate the pilgrims who come every Sunday service held. But the extending effort also is impossible to be performed because of the limitation of land. Finally, the pilgrims agreed to build a new church in that location, Taman Yasmin Housing, which locates in Jalan KH Abdullah bin Nuh.¹⁶⁹ Lately, part of people reject the existence of GKI Taman

168 To establish an Independent Church, GKI Taman Yasmin should be a “Post”, then “Bakal Jemaat” and “Jemaat”. Victor Silaen, *Bertahan di Bumi Pancasila: Belajar dari Kasus GKI Taman Yasmin*, Jakarta: Yayasan Komunikasi Bina Kasih, 2012, p. 33

169 Abdullah bin Nuh is a nationalist writer who involved in Indonesian Independent Struggle, particularly in Japan era, 1943-1946. Abdullah had being Daidanco or komandan batalyon. This batalyon position was held by him while joining the Badan Keamanan Rakyat (BKR) and Tentara Keamanan Rakyat (TKR). He was

Yasmin because locates in the area with Islamic name.¹⁷⁰

Relating to the construction plan of that new church, the officials of church do some preparation of new church of Taman Yasmin or at that time taking place on Ring Road of Bogor City which today's name of the road is changed to be Jalan KH Abdullah bin Nuh No. 31. Then, the officials of GKI Yasmin look after Building Permits. They finally started to begin the construction planning by discussing and doing the internal survey about the development of the church which analyzing about the community needs on the place of worship in Taman Yasmin Housing and surrounding.

Public facility in Taman Yasmin Housing in Sektor 3 and Sektor 5 which planned to build the church has been changed into house of worship for other religion. The Yasmin Church Development Team got information from PT. Inti Inovaco about the possibility of purchasing the commercial land to stay at a site of 1,720 m². After that phase, the fundraising begins together with another church (GKI Kavling Polri and GKI Suryautama) while making the socialization plan.¹⁷¹

Based on the collected data from GKI Taman Yasmin, the process of making (Building Permits) has been done since March 10, 2002. Some people surrounding said that they do not mind if a church will be built there. It was proven by a statement which signed by representation of society. Then, GKI started to begin the church construction which located in Hermina hospital. At the procession symbolic performed in 2006, and the local government of Bogor attended and gave a speech at that event.

noted as one of member of Komite Nasional Indonesia Pusat (KNIP). See Victor Silaen, *op.cit.*, p. 102

170 The reason of Worshipping House Establishment restriction in a road with Islamic name was blamed by KH Toto Mustofa, the son of KH Abdullah bin Nuh, he said that there's no one of Abdullah's children restricted the establishment of GKI Taman Yasmin, even that statement is not meant that the clan of Abdullah supporting it also. Dalam *Ibid.*

171 Ismail Hasani and Bonar Tigor Naipospos (ed.), *Politik Diskriminasi Rezim Susilo Boambang Yudhoyono; Kondisi Kebebasan Beragama/Berkeyakinan di Indonesia 2011*, Jakarta: Pustaka Masyarakat SETARA, 2012, p. 70

Evidently, in 2008, local government of Bogor repealed the building permit on the grounds of fraud citizens' signatures. One of Community Unit (RW) chief named Munir Karta accused as the perpetrator of fraud signature of building permits for GKI Taman Yasmin.

In every step taken by individual or a group of individual, must have a background motif. Every associations or alliance which built by some persons, should be based on the same interests. That association or alliance can be a business entity, charities or social donation, and also organization. The formed organization could be a society/community organization, or organization which formed because of the same ideology or political view.

Related to the case befalls on GKI Taman Yasmin in Bogor, there are some motives which presumably supports. One of the restriction motives of GKI Taman Yasmin existence is is economics motif. It is expressed by the members of Indonesian Parliament in Commission I, Lily Wahid, which suspected that the area/land of GKI Taman Yasmin that could be relocated by the Regent of Bogor would be converted for business purposes. On further, Lily Wahid said that what was done by the Regent of Bogor was truly a transactional step by utilizing the public interests to take an advantage.¹⁷²

Besides that, intolerant motif cannot be ignored through this case. Pancasila as the basic consensus in this country should be a joint life principle of citizen, but part of peoples have not understand it by overall and true about the teachings contained in those five precepts, moreover some of them refuse it. So, when they should face the diversity in their daily life, they cannot accept it completely. Not exception the presence of liyan (the others) in the context of religion. These groups of "the others" are oftenly achieving the discrimination treatment from the majority, including in the context of doing or building the house of worship.

The diability of almost Indonesian people to live in harmony and together with the other religious group or beliefs, make them cannot

172 Victor Silaen, *Bertahan di Bumi Pancasila*, p. 74

accept the presence of minority group. In the case of restriction of GKI Taman Yasmin, regardless the other interests, there is a dislike feeling of majority on to minority. The psychological tendency to not accepting this minority can be easily triggered, including by the provocation of certain intolerant group to do persecution on the minority among them.

2. The Recent Situation

The case happened to GKI Taman Yasmin is not the truly newest case occurred in two year last. The case of GKI Taman Yasmin tends to recurrent and protracted. According tp the monitoring done by SETARA Institute began on March 10, 2002. At that day the socialization of GKI Taman Yasmin establishment happened. The society was signed the agreement of church establishment on the land area of 1.721 m² which located in Sector III, Kavling 31 Jalan Ringroat Barat Kota Bogor, Kelurahan Curug Mekar.¹⁷³

In this report, the observation of SETARA Institute will be focused on the incidents which related to the case of GKI Taman Yasmin that happened in 2012. On January 22, 2012, hundreds people which united in the name of Curug Mekar society, Indonesian Muslim Communication Forum, and Reform (Forum Komunikasi Muslim Indonesia), and Islam Reform Movement (Gerakan Reformasi Islam) held a demonstration to restrict the worshipping of the congregations of GKI in Taman Yasmin, Bogor, West Java.

This group outflanked a house which being the house of worship for the followers of in Jalan Cemara Raya number 9, Taman Yasmin Housing. This group did demonstration and threated the followers who were doing the worship after passing the layered blockade of the security. This chaos was finished after the followers of GKI Taman

173 To get chronic case narration of GKI Taman Yasmin dari tahun 2002, from March 10, 2002 until March 11, 2011 can be seen on Ismail Hasani and Bonar Tigor Naipospos, *Politik Diskriminasi Rezim Susilo Bambang Yudhoyono*, p. 74-82

Yasmin dissolve itself and did not continue their worship.¹⁷⁴

The Indonesian Churches Association (PGI) expressed their disappointment to the respons of President (Susilo Bambang Yudhoyono) in handling the conflict of GKI Taman Yasmin. PGI which also accompany with some organization of Christian and Catholic particularly highlight the ambiguity of SBY in doing execution the verdict of Supreme Court (MA).

On Sunday morning, April 8, 2012, tents of followers of GKI Taman Yasmin, Bogor City, Jawa Barat, held the Easter Worship in house of one follower in Bogor Country House, Tanah Sareal, Bogor City. The worship runs well without police cordon. That worshipping place close to within about two kilo metres from the location of the building of GKI Taman Yasmin which sealed by Local Government of Bogor.¹⁷⁵

3. Public Respons

The former First Lady, Shinta Nuriah Wahid supported the steps initiated by National Security Council (DKN) to solve the disputes of GKI Yasmin Bogor, West Jawa. In the assessment of Shinta, the advice of DKN to build the mosque beside the church, is a good idea. She said that the device could be showing of the reflection of Indonesian Diversity. She gave a sample of Istiqlal mosque and Catedral in Jakarta which those building are located facing each other. Shinta Wahid emphasized that she really appreciated what DKN done. She agreed if beside of GKI Taman Yasmin would be built a mosque.¹⁷⁶

174 Ananda W. Teresia, "Persekutuan Gereja Kecewa Sikap SBY pada GKI Taman Yasmin", tempo.co (online news), Febryary 12, 2012, from <http://www.tempo.co/read/news/2012/02/16/063384333/Persekutuan-Gereja-Kecewa-Sikap-SBY-pada-GKI-Yasmin>; Internet; downloaded on December 18, 2012.

175 Antony Lee, "Ibadah Paskah GKI Taman Yasmin di Rumah Jemaat," April 8, 2012, from <http://nasional.kompas.com/read/2012/04/08/11501612/Ibadah.Paskah.GKI.Yasmin.di.Rumah.Jemaat>; Internet: downloaded on December 18, 2012.

176 "Tuntaskan Sengketa GKI Taman Yasmin, Sinta Wahid Dukung Langkah

Whilst the Legal Practitioners of Todung Mulya Lubis more emphasized to not disputing the religion case and belief in Indonesia, reduce the ability of diplomacy in international relations. She said, almost three years the followers of GKI Yasmin fight for reaching their rights. She also appreciates the step of DKN and Watimpres which presses the pluralism spirit.

According to her, this step should be done to retreats the tolerant among religious community in Indonesia. The case of GKI Taman Yasmin seems as if the tip of iceberg. If this case could be solved well and fast, so another step forward to overcome the social intolerant in this country could be reached.

Because, the freedom of religion is a constitutional rights which cannot be deprived by any power. Indonesia as a democracy country should protect the rights of minority in reaching their constitutional rights. Further he said that the protection on minority increasingly threatened. And if the minority group is bothered, means the democracy is downgrades itself. Todung expressed that he is disappointed to the Regent of Bogor, Dinai Budiarto which not attends the meeting in the office of Watimpres several times ago. Diani should appreciate that sent invitation because Watimpres is an important institution to give consideration to the President.

The followers of GKI Taman Yasmin (and also HKBP Filadelfia) told the police of Bogor and Bekasi to Ombudsman RI. This was taken because of no responses from the police department on the conflict report of followers and society. On September 10, 2012, the representation of GKI Taman Yasmin and HKBP Filadelfia accepted by the member of Ombudsman, Budi Santoso. GKI Taman Yasmin and HKBP Filadelfia accompanied by Laura, The Official of Indonesian Churches Association (PGI) and Ali Akbar from Human Rights Working Group (HRWG).¹⁷⁷

Dewan Ketahanan Nasional” *suara pembaharuan .com* (online news), May 16, 2012, from <http://www.suarapembaruan.com/home/tuntaskan-sengketa-gki-yasmin-sinta-wahid-dukung-langkah-dewan-ketahanan-nasional/20231>, downloaded on December 18, 2012

177 Kristantyo Wisnubroto, “GKI Taman Yasmin dan HKBP Filadelfia Adukan

These are the report which ignored by Polresta Bogor in the case of GKI Taman Yasmin:

1. Relating to the reported party, Ahmad Iman (Coordinator of Forkami) because of his performance to damage the wall of the church. Instead of being legal processed, he even being invited in the meeting of Home Ministry/ *Mendagri*, Mayor and GKI Taman Yasmin in Bogor, September 7, 2012.
2. Relating to the locking and ilegal sealing done by local government of Bogor in 2010. This have never been followed up even the police have issuing SP2HP which stated that the police have found the beginning evidence, namely; the Local Government have done crime to restrict a worshipping activity.
3. Relating to the verbal threat of Bogor Regent, Diani Budiarto which reported by one of daily local newspaper in Bogor. That reporting contains about threat pointed to GKI Taman Yasmin to leave their legal residence in the area of Taman Yasmin.

Because feel so frustrated on the weak handlement from government to the case of GKI Taman Yasmin, the followers decided to do their Suday worship in front of State Palace. In that worship also gathered the followers from church of HKBP Filadelfia Tambun, Bekasi, which has the same experiences. During that procession, there is little different between that worship with another worship. At the time also Indonesia celebrated the Independence Day 67th. In that very hot weather, the followers install the posters which containing the demands pointed to the government in order to give the guaranty on religious harmony in daily life.¹⁷⁸

Polisi ke Ombudsman”, *beritasatu.com* (berita online), September 10, 2012, from <http://www.beritasatu.com/nasional/70860-gki-yasmin-dan-hkbp-filadelpia-adukan-polisi-ke-ombudsman.html>; Internet; downloaded on December 18, 2012.

178 Pepe Goldman, “Frustrated, GKI Taman Yasmin Holds Another Sunday Mass In Front of State Place”, *the Indonesia today.com* (online news), August 26, 2012, from <http://www.theindonesiatoday.com/news/politic-news/politic-headlines/item/264-frustrated,-gki-yasmin-holds-another-sunday-mass-in-front-of-state-place.html#.UNtCROSpDm4>; Internet; downloaded on December 18, 2012.

This action was not the first time to be done. A month before, around 150 people from those both churches also hold Sunday Worship in the same place. They expressed their disappointment on the handlement of the case which performed by Presiden SBY.

Moreover, foreign government considers that this occur continuously cases befalls GKI Taman Yasmin as something which hard to be understood,¹⁷⁹ because what befalls on GKI Taman Yasmin beyond the reason of democracy and also the Framework of law state. The court is clearly won the GKI Taman Yasmin could be interpreted different by the local government, which in this context is the Regent of Bogor. For them who have a healthy sense, surely hard to accept this reality happened in a Law State.¹⁸⁰

4. Between Promises and Frustration

Even so, GKI Taman Yasmin feel like get fresh breeze from the government which said that the case befalls on that church will have a good solution from central or local government before Christmas comes. This was like what said by Jayadi Damanik, one of advocacy team member of GKI Yasmin; “*The central government, [the] provincial government, directors general, [the] home affairs minister said they would settle it before Christmas.*”¹⁸¹ Further he said that the demands from GKI Taman Yasmin is not the maximal one to justify them who di intolerant by sealing and forbids the followers to worship in GKI Taman Yasmin. They just want to see about the law enforcement through the execution

179 “GKI Taman Yasmin saga confuses outsiders: NGOs” *jakartapost.com* (online news), October 5, 2012, from <http://www.thejakartapost.com/news/2012/10/05/gki-yasmin-saga-confuses-outsiders-ngos.html>; Internet; downloade on December 18, 2012

180 As what stated in Article 1 (3) of the 1945 Constitution mentioned: *Negara Indonesia adalah negara hukum*. The consecuen from this verse is that all action related with the individual and communal life should based on the law.

181 Firdha Novialita, “Still Unable to Worship, GKI Taman Yasmin Church Laments Govt Inaction”, *Jakarta Post* (online news), October 6, 2012, from <http://www.thejakartaglobe.com/home/still-unable-to-worship-gki-yasmin-church-laments-govt-inaction/548485>; Internet; downloaded on December 18, 20112.

of Supreme Courts verdicts which relating to construction of their worshipping house.

In press conference on September 23, 2012, GKI Taman Yasmin, and also HKBP Filadelfia, said that:

“In this heavy situation, GKI Taman Yasmin and HKBP Filadelfia, still experience until now; about the condition where our two churches in its own location, is being closed by Local Government of Bogor and Bekasi even it has building permits. That permit actually legalized strongly by the court’s verdict; we restand here, across the state palace of Istana Merdeka Jakarta, asked to the God and just pray that the discrimination on us would be stopped soon. We also hope that our country could enforce the constitution and law without any discrimination as the truth justice like what we dream of.”

The followers of GKI Taman Yasmin in Bogor hope that the speech of Presiden Susilo Bambang Yudhoyono would be performed by all. In his speech, SBY said that anyone should be complied by the law and everyone who violates the law should be justified if against the law. The spokesman of GKI Taman Yasmin Bona Sigalingging said that, there is a public official in Bogor who against the law over the years, namely the Mayor Diani Budiarti. The action of Diani who forbidding the followers of GKI Taman Yasmin is a tort and ignoring the principle of state law like what emphasized by the President.¹⁸²

Frustration which felt by followers of GKI Taman Yasmin and also HKBP Filadelfia reflected in their pers conference that coincides with Sumpah Pemuda Day on October 28, 2012. In that pers conference, they continued to count down what they have done since two week before. They wanted their church can be opened again for worshipping.

182 “Pidato Presiden Harus Diterapkan dalam Kasus GKI Taman Yasmin” pgi.com (PGI official site), October 11, 2012, from http://www.pgi.or.id/index.php?option=com_content&view=article&id=488:pidato-presiden-harus-diterapkan-dalam-kasus-gki-yasmin&catid=95:liputan-pgi&Itemid=562; Internet; downloaded on December 18, 2012.

Besides that, they also urged the State, especially through the President, SBY, to do some concrete steps which taking time around 58 days started from today, December 25, 2012, Christmas 2012 that would be coming. The constitution and law would be enforced, the legitimated church of GKI Taman Yasmin and HKBP Filadelfia would be restart to opened, so that the followers of GKI Taman Yasmin and HKBP Filadelfia would be able to repeat their activities in worshipping in that church according to their religion and belief.

5. The Response of Government

In order to keep the tolerant condition among the religious life and beliefs, the role of government is a necessary. Some of policies which are pro to the minority's existence were completely helping them to protect their basic rights of religion and beliefs. In contrary, sometimes having the government actually helped repressive (repression) the minority group existence, with a range of policy is likely to reduce or even negate the rights of religious minorities.

According to the Chairman of the Constitutional Court, Mahfud MD, the problem of GKI Taman Yasmin actually can be solved through the assertiveness of central government. The Government should explain the followers of GKI Taman Yasmin about the reason why that regulation cannot be implemented. Not allowing the verdict of *inkracht* MA to be violated and raises questions among people.¹⁸³

Meanwhile, the Presidential Advisory Council (Watimpres) will invite the Mayor of Bogor, Diani Budiarto and representation of Gereja Kristen Indonesia (GKI) Taman Yasmin. Watimpres will facilitate the handlement of prolonged dispute of establishment of GKI Taman Yasmin in Bogor, West Java.¹⁸⁴

183 Maria Natalia, "Mahfud: Ada Apa di Balik Masalah GKI Taman Yasmin", February, 15, 2012, from <http://nasional.kompas.com/read/2012/02/15/23172371/Mahfud.Ada.Apa.di.Balik.Masalah.GKI.Yasmin.;> Internet; downloaded on December 18, 2012.

184 Ferry Santoso, "Wantimpres akan undang Walikota Bogor," April 11, 2012, from <http://nasional.kompas.com/read/2012/04/11/22114885/Wantimpres.Akan.>

The presiden of Susilo Bambang Yudhoyono instructed that the dispute of GKI Taman Yasmin must be resolved soon. Presiden asked the mayor of Bogor, Diani Budiarto and Governor of West Java, Ahmad Heryawan to help each other in resolving this dispute which occurred since 2002.

The given respons of central government, which contextually is Presiden SBY, is like a mirage. Conclusively, the President said, "I give attention to what happened in GKI Taman Yasmin," Presiden said in the event of silaturahmi in Presidential Palace of Istana Negara, Jakarta, on Monday, February 13, 2012.¹⁸⁵ Even this statement can be categorized as a form of attention from central government in facing this case, but that statement have no meaning if accompanied with the instruction or command which explicitey containing the pressure pointed to the lower-level governments. To face this case which experienced by GKI Taman Yasmin, the President cannot just sympathy or give attention only, but more than it.

The alibi on SBY verbally maybe irrational, because the location of GKI Taman Yasmin just 40 kilometer from the state Palace and only 20 kilometer from the resident of President SBY in Cikeas. When this case dragged on because of the verdict of MA cannot be executed by the local executive which is partial matter arranged in the scope of jurisdiction of central government. As the law state, where the law supremacy is being the lofty ideals, so the nation and state life become worse.¹⁸⁶ It could be better if the President SBY becomes more loyal to the mandate of UUD 1945 and Pancasila to protect the basic rights of citizens, instead of submitting this case of GKI Taman Yasmin to the Mayor of Bogor or just dogged by taking refuge behind the UU of Regional Autonomy. The Intervention of this case cannot be a stain in

Undang. Wali. Kota. Bogor; Internet: downloaded on December 18, 2012.

185 Aditya Revanur, "Wantimpres Mendukung Agar GKI Taman Yasmin Tak Direlokasi", October 24, 2012, from <http://nasional.kompas.com/read/2012/10/24/15273091/Wantimpres.Mendukung.agar.GKI.Yasmin.Tak.Direlokasi>; Internet: downloaded on December 18, 2012.

186 Victor Silaen, *Bertahan di Bumi Pancasila*, p. 216

the story of SBY's leadership, if that could be handling problem.¹⁸⁷

According to the research of Paramadina Institute relating to the response of local government about the freedom of religion, decided that there are some typicals of local government. *First*, government's support on freedom of religion and establishment of house of worship for Christian (Church). *Second*, the resistance government. *Third*, the government which not rejecting or supporting.¹⁸⁸ The local government of Bogor which in this context, includes in the part of resistance group that supporting the freedom of religious/ belief.

There are some solutions that were offered to GKI Taman Yasmin. The solution that oftenly offered by the Government of Bogor City is relocation. But that offered solution denied by the side of GKI Taman Yasmin. That denial due to two aspects; those are the juridicial reason which said that the verdict of Supreme Court and Mandatory Recommendation of Ombudsman RI haven't give a space on the relocation option. Second, historical aspect through the reflection which was experienced by HKBP Ciketing Bekasi about the promised lisenche which have never be issued.¹⁸⁹

Until this report written and published, there's no concrete action from central or local government in solving this case of GKI Taman Yasmin. Even, the current situation before this paper was in editor and ready to be published, the followers of Church GKI Taman Yasmin and HKBP Filadelfia invited President of SBY in Christmas mass which held in front of Istana Merdeka. This action done by considering if the President felt about the distance between GKI Taman Yasmin and HKBP Filadelfia are too far to be visited, so the initiative to do a mass in the place where is not too far from President's resident.

In the mass which held on December 24 and 25 in front of Istana Merdeka, the church officials provided VIP places (Very Important Person), as the seat of President. But unfortunately – and this was

187 *Ibid.*

188 Victor Silaen, *op.cit.*, p. 82

189 Victor Silaen, *op.cit.*, p. 116

predicted before, in that mass execution, the President cannot come to the program which sent by the official. So, the victims of intolerant action of religion/beliefs seemed like the citizens (without) state or citizen without President. []

