

## CHAPTER 5

# Conclusion and Recommendation

## A. Conclusion

1. In macro level, the condition of freedom of religion / belief in Indonesia is not progressing due to continued maintenance of a variety products of legislation which is discriminatory, such as UU No.1/PNPS/1965, The Joint Decree of Minister of Religious Affairs and Ministry of Internal Affairs, SKB Ahmadiyah restrictions, and other discriminatory local regulations. All products in the law have become a tool of legitimacy for Islamic organizations and communities hardline to violence, which is increasing in 2012.
2. On this year, the SETARA Institute noted about 264 violations of freedom of religion / belief with 371 forms of action, which is spread in 28 propinsi. There are 5 provinces with the highest offense level they are West Java (76), East Java (42), Aceh (36), Central Java (30), and South Sulawesi (17). Should be noted, the province of West Java is the “champion” of 2011 by having 57 cases.
3. The most important occurred in October (40) and May (38) incidents. Then, consecutively occurred: August (28) incidents, September (25) incidents, November (24) incidents, April (23) incidents, March and June, severally (22) incidents, January (21) incidents, July (11) incidents, February (8) incidents and December

- (2) incidents. The small number of incidents on December, it was ver possible because the monitoring was just done within December 15, 2012.
4. From 371 of violations on freedom of religious/ beliefs, there are 145 (39%) of state actions which involved the apparatuses to become the actors. From 145 of state actions, 117 of them are *by commission* actions and 28 of them are *by omission* actions. The actions which included as the state active actions are the provocatiive statements of public figures and triggering the condoning or being the justification of violations.
  5. To the violations which involving the state as the actors, the legal Framework to account it is human rights law which pressing the state to obey the ratification of international covenant and convention of human rights. The institution of state which doing the violation mostly are: police department (40 cases), Regent Governrment (28), City Government (10), Ministry of Religion and Camat, severally (8), and Attorney (6 cases).
  6. From 371 the violations on freedom of religious/ beliefs, there are 226 (61%) incidents which done by the citizens, even in the form of criminal actions (169) cases, *condoning* which done by the public figure (15) incidents, and intolerant (42) cases. The catagory of crime, the legal Framework that could be used to justifying it is Criminal Law. And for the catagory of condoning and intolerant even legally has not the solution, ethically could be questionable as the *hate speech* (hatred statements), which in the certain chances can be questioned by using the criminal law.
  7. The perpetrator of violation in this category is an individual citizen or individual who joining an organization. Some group with most violation cases did consecutively: Society/residents (76) incidents, Indonesian Ulema Council/ *MUI* (25) incidents, Front Pembela Islam-FPI (24) incidents, Gabungan Ormas Islam (10) incidents, and educational institution (9) incidents. The high number of

actions done by the citizens explained at least two things: *First*, the high number of intolerant rate in the midst of public. This phenomenon also intimates the weakness of basic capital of peaceful *co-existence*. For that, the state should be present as the strong tolerant agent. *Second*, the amount of space given by state to the intolerant actors such as a certain religious organization. For example, *FPI* which oftenly performs “exceed” than the state apparatuses. In this context, including *MUI* which oftenly “provokes” intolerant action throught issued fatwa, but when violent excesses from that fatwa, they “give up” – such as what happened to some violents cases on Ahmadiyah in West Java.

8. The documented incidents in 2012 leads to main groups: Christian followers (50) incidents, Minority Religious Sects (42) incidents, Shia (34) and Ahmadiyah (31) incidents. As much as (42) individuals experienced the violations on freedom of religion /beliefs. Generally, the victims accepted the fair rights as guaranteed in the Framework of human rights, such as compensation, rehabilitation, and restitution. But what was happened oftenly, the state “further complicate the situation on them”, like criminalization as well (court verdict and detention), accusation, and omission in facing the attackers.
9. In 2012, SETARA Institute coted 38 house of worship which experiences the disruption in some forms, they are: assault, sealing, restriction, construction and others. From 59 of those house of worship, majority befalls the Christian (25) worshipping houses, Ahmadiyah (5) worshipping houses, Islamic Religious Sects (3) worshipping houses, Buddhist (2) worshipping houses, Shia (1) worshipping houses, and Konghucu (1) worshipping house.
10. Besides being the result of the intolerant and discriminative regulations which contrary to the state constitution, the violations also caused by lack of sensitivity and alignments of Minister of Religion, Minister of Internal Affairs, Minister of Law and Human Rights, and also the President of Republic of Indonesia

who are completely not supporting or even tend to perform contraproduktively to the guaranty promotion of freedom of religious/ belief. Besides the Minister of Religion who denies all of the violences, the President, Susilo Bambang Yudhoyono also seem like doesn't care to the violations on freedom of religious/ beliefs.

11. There are no meaningful initiatives and breakthroughs in overcoming violence experienced by various Christian congregations, Shia, Ahmadiyah and other minority groups. SBY even always boast that during his leadership no gross human rights violations occurring. Though violations of freedom of religion / belief is a basic and fundamental freedoms can not be delayed the fulfillment. SBY perspective on human rights is limited to the acts of violence committed by the security forces alone is a fundamental mistake to understand the concept of human rights. During his leadership is precisely the fundamental rights to freedom of religion / belief has been violated.
12. Political party as the political element (along with the political elite in it) has absolutely no contribution to the advancement of freedom of religion / belief. Sporadic response of political parties leaders, are not tested in the form of work in parliament which questioning the government's performance in the promotion of freedom of religion / belief. Political parties fail to perform the regeneration diversity in the party that is conducive to the promotion of tolerance. Political parties also failed to carry out the functions of aggregation and articulation of the aspirations of the public who threatened civil liberties. In fact, in a pragmatic discrimination against minority-at least in the form of condoning-politicized as an instrument to gain votes (vote getter) of the majority of the regional political contestation.
13. Under these conditions, the freedom of religion / belief in Indonesia has not experienced significant progress. For six consecutive years violations of freedom of religion / belief remains stagnant even tends to increase to the worrying point due to the accumulation of state actor's failures.

14. Just as in 2011, President Susilo Bambang Yudhoyono in 2012 showed more verbal speech leadership—he prefers to give speech about tolerance than working seriously and scalable to create tolerance by providing freedom guarantees of its citizens. Without *political will* and seriousness of Head of State to give freedom guaranty, so the tolerance just being the words from a President which has no contribution to the human rights. Along 2012, not less than 15 times Presiden Susilo Bambang Yudhoyono gave messages of tolerance in every moments—lebih sedikit dari tahun 2011, di mana Presiden Susilo Bambang Yudhoyono menyampaikan pesan toleransi sebanyak 19 kali.
15. In addition to current events throughout 2012, the political strength of words over religion / belief is also demonstrated by the completion of handling a number of cases of violations freedom of religious/ belief to a protracted, repetitive, and continuously producing and reproducing public anxiety. In 2012, 20 Christian places of worship sealed in Aceh, the case of GKI Taman Yasmin Bogor unresolved, Shia Sampang repeated attacks which even cause 2 fatalities, Hamamah (50) and Husin (45), neglect of Shia Sampang refugees, displaced Ahmadiyah in Transito Mataram, and the heinous murder on Tgk. Aiyub Syahkubat (47) leader of the religious sect considered heretical, and Muntasir (26) followers Aiyub, in Bireun, Aceh. Religious tensions have also been a number of victims from the perpetrators of such attacks occurred in attacks against Teungku Aiyub in Bireun who also claimed one casualty, namely Mansur. Whilst in Sukabumi, Ustadz Endin Jainudin, activists of Islamic Reformist Movement (LINE) who disagreed with the religious sect that taught by Sumarna, also allegedly killed by a follower of Sumarna.
16. No progress can be noted in the Report on the Conditions of Freedom of Religion / Belief 2012. The rest of the leadership of Susilo Bambang Yudhoyono is less than 2 years is enough to make a real breakthrough that not only will be a legacy for his leadership,

but also hasten the elimination of discrimination on religion / belief. Forming the Regulation of Religious Discrimination, action against perpetrators of violence and discrimination is fair by courts, take action against ministers and local government acts and policies issued discriminatory and intolerant, providing holistic recovery for victims, are a number of steps that can be taken by the President, as head of government as well as the Head of State. However, it was evident all along that President Susilo Bambang Yudhoyono did not have a concern and are reluctant to take the initiative in resolving apparent violation of freedom of religion / belief.

17. Various reports of the condition of freedom of religious/ belief, plus the facts of violations religious freedom occurring at least 6 years tapers to the conclusion that the regime Susilo Bambang Yudhoyono, after the year 2011 has chosen the way of real political discrimination in regulating the life of religion / belief, minor situations freedom of religion / belief in 2012 also indicate that president Susilo Bambang Yudhoyono is a leader without initiative and leadership in promoting freedom of religious/ belief.
18. Political discrimination manifests itself in the formation of policies of discriminative politic, omission of discriminatory practices, maintain the state apparatus which failed to eliminate discrimination, and denied that there had been discrimination, including denying the facts of human rights violations. While predicate 'The President without Initiatives' refers to the absence of affirmative action from the president to address the violations of freedom of religious/ belief. Even on a bright and events are repeated. Leader without leadership seen from the absence of clear directives and instructions and be guided by local government officials to overcome the violations of freedom of religion / belief. The local government was allowed to apply a politicization of religious identity for political self-interest and group and work under the pressures of majority.

## B. Recommendation

1. President Susilo Bambang Yudhoyono, as the head of state should take advantage of the rest of the political leadership that is less than 2 years to: 1) complete a variety of violations of freedom of religion / belief in particular: related incidents of Ahmadiyah pilgrims, incidents related to the place of worship demolition, with a firm action against the perpetrators of violence, both individual and organization, 2) overcome neglect Shia Sampang and Ahmadiyah refugees in Transito Mataram, 3) take action to menanganan discriminatory policies in various areas, and 4) taking policy as head of state to stop the criminalization of victims of violations freedom of religious/ belief.
2. The Government and Parliament should initiate the establishment of Law on the Elimination of Discrimination religion/belief that principles was derived from the constitutional guarantees in the 1945 Constitution as well as by adopting human rights principles in a holistic manner.
3. The Supreme Court should create a policy framework (eg in the form of Supreme Court Circular Letter) to be guided judicial institutions under it to use the article of the 1945 Constitution which guarantees freedom of religion / belief, along with the Act in accordance with the 1945 Constitution (ie Act No. 39 of 1999 on Human Rights and Law No. 12 of 2005 on the Ratification of the International Covenant on Civil and Political Rights) as the legal basis for equitably decide matters relating to freedom / religious institutions at the level of public justice, appeal, and cassation .
4. House of Representative (*DPR RI*) gives serious attention and exercises the supervision for the constitutional implementation rights of citizens to be independence in actualizing their rights of freedom of religious/belief with the parliamentary caucus for the freedom of religious/ belief and set the supervision agenda and legislation conducive to the freedom of religious/ belief.

5. The Police of Indonesian Republic drafting internal policy which conducive for developing the guaranty freedom of religious/ beliefs by holding particular training for police apparatuses about pluralism and freedom of religious/ belief, including the conflict solvement steps and/or violation through the religion's name.
6. The government and House of Representative (DPR RI) follow-up some recommendation given by Human Right Council of UN in *Universal Periodic Review* (UPR) on May 2012.
7. The government should invites Special Rapporteurs from UN which concern on Freedom of religious/ beliefs and give the widest access to investigate every violations of freedom of religious/ beliefs.

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