#### UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

LIA DEVITRI, EVA GRASJE, SYANE KALOH, JOHN LONDA, MELDY LUMANGKUN, MARTIN LUMINGKEWAS, MEIVE LUMINGKEWAS, TERRY ROMBOT, AGUS SETIAWAN, FREDDY SOMBAH, POPPY SOMBAH, and all other individuals similarly situated,	
Petitioners/Plaintiffs,	Civil Action No.
v.	
CHRIS M. CRONEN Boston Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement	
TIMOTHY STEVENS Manchester Sub-Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement	
ELAINE C. DUKE Acting Secretary of the U.S. Department of Homeland Security	
Respondents/Defendants.	

#### MEMORANDUM OF LAW IN SUPPORT OF MOTIONS FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, AND STAY OF REMOVAL

#### I. INTRODUCTION

Petitioners/Plaintiffs are Christian Indonesian nationals who have resided in the United States for many years. While they all ultimately became subject to final orders of removal, the United States permitted them to continue to live and work here under orders of supervision through a program called "Operation Indonesia Surrender." The government recently appears to have discontinued that program without notice, but, rather than allow the program participants the opportunity to reopen their immigration cases to seek the immigration relief that may be available to them now (years after the immigration courts first ruled on their requests to remain

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in the United States), U.S. Immigration and Customs Enforcement ("ICE") is ordering them to report to immigration field offices with tickets to Indonesia within 30 days. Accordingly, they, and the class of similarly situated individuals they seek to represent in this representative action, now face imminent removal to Indonesia.

Indeed, two Petitioners/Plaintiffs, married couple Freddy and Poppy Sombah, whose circumstances were detailed yesterday on the front page of the *Manchester Union Leader*, are scheduled for removal this Wednesday, September 27, 2017. *See* Affidavit of Sydney Pritchett ("Pritchett Aff."), Ex. A, Shawne K. Wickham, "Somersworth man: 'DACA saved me, but my parents are facing deportation'," *Manchester Union Leaders* (Sept. 24, 2017), *available at* <u>http://www.unionleader.com/Somersworth-man:-DACA-saved-me,-but-my-parents-are-facing-deportation</u>. The circumstances of the denial of the due process to the Sombahs is further detailed by their immigration counsel William P. Joyce, a former immigration judge, who describes how their treatment does not comport with reasonable timelines or due process, especially for those, like the Sombahs, who have no criminal records, pose no threat to national security, and otherwise have no reason to be removed on a timetable that has effectively foreclosed what would be a meritorious claim for relief. Affidavit of William P. Joyce, Esq. ("Joyce Aff.") at ¶ 6.

If removed to Indonesia under current conditions, Petitioners/Plaintiffs face a significant risk of persecution and torture, conditions which have been heightened since the start of Operation Indonesian Surrender because of the recent increase in the threats posed by the increase in anti-Christian extremism in that country. More importantly, conditions have changed since the final orders of removal were issued to Petitioners/Plaintiffs and the rest of the putative class members. In most cases, it has been over a decade since their removal orders became final.

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Yet the government has failed to provide Petitioners/Plaintiffs (and the putative class they seek to represent) with a fair opportunity to demonstrate their entitlement to protection from removal in light of the changed circumstances. The government's haste in seeking to remove them without affording them that opportunity deprives them of due process and violates U.S. law, which prohibits the removal of individuals to countries where they would face a likelihood of persecution or torture.

#### II. BACKGROUND

In 2009 and 2010, ICE in New England began a program called "Operation Indonesian Surrender" to induce Christian Indonesian nationals who were residing under a final order of removal to identify themselves to ICE in exchange for the ability to remain in the United States under an Order of Supervision. *See* Pritchett Aff., Ex. C, Jeanne Shaheen, "Another View – Jeanne Shaheen: Trump should let NH'S Indonesian community stay," *Manchester Union Leader* (Sept. 10, 2017), *available at* <u>http://www.unionleader.com/Another-View-Jeanne-</u> Shaheen-Trump-should-let-NHs-Indonesian-community-stay-0911201.

As described by an ICE public affairs official, this was a "humanitarian effort" involving Indonesian churches. *See* Pritchett Aff., Ex. B, Jennifer Keefe, "ICE Seeks Surrender of Illegal Immigrants," *Foster's Daily Democrat* (Sept. 10, 2010) ("The whole purpose is bringing folks out of the shadows and saying listen, we'll work with you. They're hiding in fear and we don't want that - no one wants that.""), *available at* 

http://www.fosters.com/article/20100901/GJNEWS\_01/709019921. ICE worked with pastors in the Indonesian Christian churches, such as Rev. Sandra Pontoh of the Maranatha Indonesian United Church of Christ, to help identify "upstanding" members of the community to participate

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in this program. Affidavit of Rev. Sandra Pontoh ("Pontoh Aff.") at  $\P$  5. *Id.* Individuals with criminal records were not eligible for the program. *Id.* at  $\P$  6.

More than 100 Christian Indonesians in New England voluntarily elected to participate in the program offered by ICE and received Orders of Supervision. Id. Such Orders required the participants, for example, to report to ICE at any interval ICE deemed appropriate, submit to medical or psychiatric exams at ICE request, not travel outside New England without notifying ICE of the dates and places of travel, and submit any "information under oath about nationality, circumstances, habits, associations, and activities" that ICE requested. In 2012, the program was further limited to individuals with U.S. citizen spouses or children and those with health conditions, and approximately 70 individuals remained in the program after that criteria was imposed. Pontoh Aff. ¶ 11. Petitioners/Plaintiffs reasonably believed that in setting out this clear criteria, ICE had reached a settled determined that those with U.S. citizen children or spouses satisfied program requirements and would not need to fear deportation; that approach continued for the next five years, further indicating a settled position by ICE. They relied on these Orders of Supervision, generally abided by their conditions, and continued to be productive and law abiding members of their respective communities, including paying taxes and otherwise behaving much like citizens of this country, all while complying with ICE monitoring requirements. Pontoh Aff. ¶ 7.

In June 2017, ICE advised the community that it would begin issuing denials of Applications to Stay Removal and/or Notices of Revocation of Release to Indonesian Christians who were participants in the program. Pontoh Aff. ¶ 12. The change in policy came as a shock to the community. *Id.* Until then, Indonesians with final orders had been living at large, for years, with few restrictions apart from regular reporting requirements. Law abiding individuals who

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have been fully compliant with their conditions of supervision suddenly found themselves facing

orders to return to ICE within 30 days with tickets back to Indonesia, a country where they will

surely face severe persecution, without warning about this change and a lack of an opportunity to

seek any relief in the form of motions to reopen. Id.

Persecution of Christian minorities in Indonesia has been well documented, as the U.S.

Court of Appeals for the First Circuit has recognized, even since the beginning of Operation

Indonesian Surrender:

Panoto is a Christian from Indonesia, a predominantly Muslim country. According to the IJ's decision, Panoto testified that she experienced persecution as an Indonesian Christian and attributed the following incidents to her religious identity.

On Christmas Eve in 2000, a member of Panoto's congregation found a black box outside their church. Police officers determined that the item was a bomb and removed it before it could detonate. Panoto testified that local authorities did not investigate the event further. Approximately six months later, in June 2001, Panoto was riding on a ferry boat when it was hijacked by Muslim extremists. Once aboard, the hijackers shouted for the Christian passengers to come forward. Panoto witnessed the militants slit an elderly Christian woman's throat, killing her. One extremist then yanked Panoto by the hair and slapped her, commanding that she state her faith. Panoto did not reply, and just as he was about to attack her, another hijacker called him away.

Panoto v. Holder, 770 F.3d 43, 45 (2014) (granting petition for review and vacating order of

removal).

Due process requires that the Petitioners/Plaintiffs receive an opportunity to have their claims to protection from this kind of persecution considered in light of current conditions, not the conditions that existed at the time their removal orders were first issued, which in many cases is now more than a decade ago. And substantive U.S. law forbids their removal into probable persecution and torture. A stay is imperative to preserve the status quo and give Petitioners/Plaintiffs an opportunity to present their claims to an appropriate tribunal for a fresh adjudication of the legality of their deportation to Indonesia. To that end, this court may issue a

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preliminary injunction prior to ruling on class certification. *See* Newberg on Class Actions § 4:30 & fn. 8.50 (5th ed.); *Rodriguez v. Providence Community Corrections*, Inc., 2015 WL 9239821, \*6 (M.D. Tenn. 2015) ("[A] district court may, in its discretion, award appropriate classwide injunctive relief prior to a formal ruling on the class certification issue based upon either a conditional certification of the class or its general equity powers." (quoting *Thomas v. Johnston*, 557 F. Supp. 879, 917 (W.D. Tex. 1983)).

#### III. LEGAL STANDARD

In considering whether to grant a preliminary injunction, district courts in this Circuit look to: "(i) the movant's likelihood of success on the merits of its claims; (ii) whether and to what extent the movant will suffer irreparable harm if the injunction is withheld; (iii) the balance of hardships as between the parties; and (iv) the effect, if any, that an injunction (or the withholding of one) may have on the public interest." *Corp. Techs., Inc. v. Harnett*, 731 F.3d 6, 9 (1st Cir. 2013); *W. Holding Co., Inc. v. AIG Ins. Co.-Puerto Rico*, 748 F.3d 377 (1st Cir. 2014) ("Whether a mandatory preliminary injunction should issue typically depends on the exigencies of the situation, taking into account [the] four familiar factors").

The purpose of a preliminary injunction is always to prevent irreparable injury so as to preserve the court's ability to render a meaningful decision on the merits. It often happens that this purpose is furthered by preservation of the status quo, but not always. If the currently existing status quo itself is causing one of the parties irreparable injury, it is necessary to alter the situation so as to prevent the injury, either by returning to the last uncontested status quo between the parties, *Ross-Whitney Corp. v. Smith Kline & French Laboratories*, 207 F.2d 190 (9 Cir. 1953), by the issuance of a mandatory injunction, see 7 Moore's Federal Practice P65.04(1), or by allowing the parties to take proposed action that the court finds will minimize the irreparable injury. The focus always must be on prevention of injury by a proper order, not merely on preservation of the status quo.

*Canal Auth. of State of Fla. v. Callaway*, 489 F.2d 567, 576 (5th Cir. 1974). Courts may grant mandatory preliminary injunctions where "the exigencies of the situation demand such relief." *Massachusetts Coal. of Citizens with Disabilities v. Civil Def. Agency & Office of* 

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*Emergency Preparedness of Commonwealth of Massachusetts*, 649 F.2d 71, n. 7 (1st Cir. 1981) (denying motion for a mandatory preliminary injunction); Robert Haig, 3d *Bus. & Comm'l Litig. in Fed. Cts.* § 17:26 (2011) ("Nonetheless, the court may still grant a mandatory preliminary injunction when necessary to protect the movant from irreparable harm and to preserve the court's ability to render a meaningful decision.").

#### IV. ARGUMENT

#### A. PETITIONERS/PLAINTIFFS ARE LIKELY TO SUCCEED ON THEIR CLAIMS THAT THEIR IMMEDIATE REMOVAL IS UNLAWFUL AND VIOLATES DUE PROCESS

Petitioners'/Plaintiffs' proposed class action does not challenge the underlying order of removal before this Court, but, rather, seeks to vindicate Petitioners'/Plaintiffs' right to fairly and fully seek protection against religious persecution through the filings of motions to reopen with the Immigration Court and/or Board of Immigration Appeals. Were Respondents/Defendants to proceed with removal prior to such an opportunity, they would do so in violation of the procedural due process rights guaranteed to the Petitioners/Plaintiffs and in contravention to the U.S.'s own treaty and statutory obligations not to remove individuals to nations where they would face torture or persecution. Enjoining such removal until Petitioners/Plaintiffs can file their motions to reopen—particularly in light of ICE's previous policies under Operation Indonesian Surrender—will prevent these violations.

The Due Process clause guarantees fair procedures prior to deprivations of life, liberty, or property, including removal from the United States. *See Reno v. Flores*, 507 U.S. 292, 306 (1993) ("It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings."). Respondents'/Defendants' efforts to remove these individuals prior to consideration of the changed country conditions are eviscerating their opportunity to be heard about current conditions and are jeopardizing their life and liberty. *See* 8 U.S.C. § 1101(b)(1)(A)

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& 1158(a)(1) (authorizing asylum for refugees with a well-founded fear of persecution on account of, among other classes, religion). Removing the Petitioners/Plaintiffs on an expedited basis and without giving them this opportunity violates the Fifth Amendment's Due Process Clause.

Due to the fact that Operation Indonesian Surrender began in 2009 and 2010, there has been no presentation about the conditions in the intervening near-decade, and, for most Petitioners/Plaintiffs, original adjudications were conducted more than ten years ago. Most, if not all, of the Petitioners'/Plaintiffs' initial requests for asylum, withholding of removal, and protection under CAT were denied prior to that time. There is no indication that ICE considered or assessed the individualized risks of religious persecution facing the participants as part of the Operation Indonesian Surrender program. Instead, ICE engaged in a policy which systematically indicated to Petitioners/Plaintiffs that they could safely raise their families, deepen their roots, and defer the costly and seemingly unnecessary efforts to reopen their removal proceedings. Given their reliance upon the program, Petitioners/Plaintiffs have not had the opportunity to be heard with regard to the changed conditions in Indonesia they will face upon return and, correspondingly, how those changed conditions affect the reasonableness of their longstanding, universal fear of religious persecution. See, e.g. Marsadu v. Holder, 748 F.3d 55, 58 (1st Cir. 2014) (quoting 8 C.F.R. § 208.13(b) (A "well-founded fear of persecution" is demonstrated by evidence establishing a "reasonable likelihood" that the Petitioner/Plaintiff will face persecution, "provided that his fears are subjectively genuine and objectively reasonable.").

Changed country conditions can serve as a strong basis for reopening an immigration case. Joyce Aff. at ¶ 14. *see also* 8 U.S.C. § 1229a(c)(7); 8 C.F.R. § 1003.2(c)(3)(ii) (excepting motions to reopen filed with the Board of Immigration Appeals from numerical and time limits if

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filed to "reapply for asylum or withholding of removal based on changed conditions... if such evidence is material and was not available and could not have been discovered or presented at the previous hearing."); Id. § 1003.23(b)(4)(i) (same). The Petitioners/Plaintiffs' removal orders predate significant deterioration in Indonesia and the increasing danger for Christians that has come in part from the rise of the so-called "Islamic State" in Indonesia. This was illustrated by an attack in 2016 in Jakarta, the area of Indonesia from which many of the Petitioners/Plaintiffs escaped to come to the U.S. As reported by the U.S. Department of State: "on January 14, 2016, terrorists using guns and explosives attacked near the Sarinah Plaza in Central Jakarta, killing four civilians, including a foreigner, and injuring 17 others." Pritchett Aff., Ex. D, Bureau of Consular Affairs, U.S. Dep't of State, Country Information: Indonesia (Apr. 17, 2017), available at https://travel.state.gov/content/passports/en/country/indonesia.html; see also Pritchett Aff., Ex. G, Jonathan Egmonth, "Islamist Intolerance Poses a Growing Threat to Indonesia's Minorities," TIME (Apr. 20, 2016), available at http://time.com/4298767/indonesia-intolerance-muslimislamist-minorities-lgbt-christians-hardliners/. See also Pritchett Aff., Ex. H, Krithika Varagur "Indonesia's Moderate Islam is Slowly Crumbling," Foreign Policy (Feb 14, 2017), available at http://foreignpolicy.com/2017/02/14/indonesias-moderate-islam-is-slowly-crumbling/.

The UN High Commissioner for Refugees has also identified "respect for minority rights and freedom of religion" as the primary issue for Indonesia in the September 2016 Human Rights' Compilation Report. *See* Pritchett Aff., Ex. I, UN High Commissioner for Refugees (UNHCR), Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: 3rd Cycle, 27th Session - Indonesia, September 2016, *available at* 

http://www.refworld.org/docid/59158ed24.html. The extraordinary danger Petitioners/Plaintiffs

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face now therefore presents a new set of facts that entitle them to a new fair process for resolution. Joyce Aff. at  $\P$  5.

Respondents'/Defendants' actions are impeding the orderly and fair operation of the immigration process. In addition to changed country conditions, Petitioners/Plaintiffs may have multiple bases for reopening their removal cases, including recent attainment of eligibility for immediate relative status (such as marriage to a U.S. citizen or a child's attainment of the age of twenty-one), ineffective assistance of counsel, or extraordinary circumstances, each of which must be carefully adjudicated by an Immigration Judge or the Board of Immigration Appeals.

Immigration cases are notoriously complex and fact-specific and the consequences to the immigrant can be even more severe than a criminal case. Attorneys need time to visit clients, interview them, gather documents, marshal evidence, and draft pleadings. This is not always straightforward. For example, changed country conditions are, for the purpose of a motion to reopen, measured by the "evidence presented at the initial adjudication with newly proffered evidence." *Marsadu*, 748 F.3d at 58. If such evidence "demonstrate[s] an intensification or deterioration" of country conditions, the case is reopened. *Id.* To surmount this exacting legal standard, the Plaintiffs/Petitioners must have access to their complete immigration files so as to analyze the evidence of country conditions considered in each case and marshal appropriate evidence of changed circumstances.<sup>1</sup> Some of these files—such as transcripts from Immigration Judges or Board of Immigration Appeals decisions—may be decades old and take several weeks to obtain. Accordingly, in the mere weeks since the apparent revocation of Operation Indonesian

<sup>&</sup>lt;sup>1</sup> In addition to serving as a basis for reopening, such evidence may also permit the Plaintiffs/Petitioners to reapply for asylum, even if their initial applications were procedurally barred. *See* 8 U.S.C. § 1158(a)(2)(B) (providing that applications for asylum must be filed within one year of an applicant's arrival). The statues and regulations, for instance, provide exemptions from the one-year bar due to "changed circumstances which materially affect... eligibility", *id.* § 1158(a)(2)(C), and excuse reasonable days in reapplying if the applicant previously maintained status, 8 C.F.R. § 1208.4(a)(5)(iv). *See, e.g., Lumataw v. Holder*, 582 F.3d 78, 85-91 (1st Cir. 2009).

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Surrender, many or most Petitioners/Plaintiffs and their immigration counsel (where such counsel have been retained) have not had sufficient time to prepare and file motions to reopen. Due process requires that Respondents/Defendants afford Petitioners/Plaintiffs a meaningful chance to demonstrate that substantive immigration law forbids their current removal.

In addition to changed country conditions, Petitioners/Plaintiffs may have other grounds for reopening their removal cases such including recent attainment of eligibility for immediate relative status (such as marriage to a U.S. citizen or a child's attainment of the age of twentyone), ineffective assistance of counsel, or extraordinary circumstances, each of which must be carefully adjudicated by an Immigration Judge or the Board of Immigration Appeals.

Respondents/Defendants may claim that the Court lacks jurisdiction to hear this due process claim in light of 8 U.S.C. § 1252(g), which bars "jurisdiction over a decision to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter." But this case does not seek to challenge the removal order; rather, it challenges the condition of the custody, i.e., the Order of Supervision, which was abruptly ended without allowing for the assertion of remedies available under immigration law. Challenging a condition of custody by habeas is not a challenge to the underlying removal order. *Ali v. Napolitano*, Civ. No. 12-cv-11384-FDS, 2013 U.S. Dist. LEXIS 104964, \*10-13 (July 26, 2013) (Saylor, J.).

Finally, this court, may, additionally, issue a stay of the removals of fourteen days to permit its own consideration of the issues presented, as a federal court always retains jurisdiction to consider its own jurisdiction. *Valentin v. Hosp. Bella Vista*, 254 F.3d 358, 363 (1st Cir. 2001) ("the court enjoys broad authority to order discovery, consider extrinsic evidence, and hold

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evidentiary hearings in order to determine its own jurisdiction."); *Kumar v. Gonzales*, No. 07-CV-003, 2007 WL 708628, at \*1 (W.D. Mich. Mar. 5, 2007) (order staying proceedings until jurisdiction decided in federal habeas case).

Earlier this summer, another district court in Michigan facing a similar issue as presented here – a habeas class action on behalf of Christians facing deportation to a nation where anti-Christian persecution has increased due to the rise of the "Islamic State" and where plaintiffs were being removed before they had a chance to file for motions to reopen on the basis, *inter alia*, of changed country conditions – granted such injunctive relief. *Hamama v. Adducci*, No. 17-CV-11910, 2017 WL 2684477, at \*3 (E.D. Mich. June 22, 2017) ("the Court stays the Government's execution of Petitioners' final orders of removal pending the Court's determination regarding whether it has subject-matter jurisdiction. The stay extends to Respondent Adducci, Field Office Director for the Detroit District of ICE, and any other federal officials and personnel involved in the removal process.").

### **B. PETITIONERS/PLAINTIFFS WILL SUFFER IRREPARABLE HARM ABSENT EMERGENCY RELIEF**

### *i.* Harm to the Petitioners/Plaintiffs is highly likely, grievous, and irreparable.

Harm is irreparable only if no adequate legal remedy exists. *Foxboro Co. v. Arabian Am. Oil Co.*, 805 F.2d 34, 36 (1st Cir.1986) ("We do not find irreparable injury where only money is at stake...."); *see also Ross-Simons of Warwick, Inc. v. Baccarat, Inc.*, 102 F.3d 12, 19 (1st Cir. 1996) (an injury is "irreparable" if it is "not accurately measurable or adequately compensable by money damages"). The harm that will be suffered by Petitioners/Plaintiffs if this Court does not grant preliminary injunctive relief is evident: while different Petitioners/Plaintiffs have different avenues for immigration relief, depending on their immigration histories, they all face a significant risk of persecution and torture if they are removed to Indonesia. Pontoh Aff. ¶ 3.

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Religious minorities (including Christians at approximately 12% of the population) continue to face harassment, intimidation, and violence from militant Islamists, government authorities, and security forces in Indonesia. Conditions for Christians have intensified since 2015. *See* "Indonesia" *Human Rights Watch, available at* <u>https://www.hrw.org/asia/indonesia</u>.

The Setara Institute, a Jakarta-based nongovernmental organization that monitors religious freedom, reported an increase in acts of religious intolerance from 236 in 2015 to 270 in 2016, while religious freedom violations rose from 197 to 208. Islam Defenders Front (FPI) took responsibility for 17 incidents of violence against Ahmadiyah and Christian congregations. *See* Pritchett Aff., Ex. J, Andreas Harsono, "Indonesia's Religious Minorities Under Threat: Police, Militant Islamists Implicated in Religious Freedom Abuses" *Human Rights Watch Dispatch*, (Feb. 2, 2017), available at <u>https://www.hrw.org/news/2017/02/02/indonesias-</u> religious-minorities-under-threat

In addition to targeted acts of violence by militant groups, more than half of the incidents of religious intolerance – 140 – implicate government entities, including local government administrations and police. A proposed religious rights protection bill, expected to go before parliament by the end of 2017, would reduce rights of religious minorities like disallowing construction of houses of worship and creating a more burdensome test for proving blasphemy. Religious Rights Bill, *available at* <u>https://www.hrw.org/sites/default/files/supporting\_resources/</u> religious\_rights\_protection\_bill\_20170720.pdf. Local police forces are giving in to FPI, Islamic Jihad Front, the Indonesian Mujahideen Council, and other "intolerant groups" who want to restrict expression of minority religious groups. *See* Pritchett Aff., Ex. K, U.S. Department of State, International Religious Freedom Report for 2016, *available at* 

https://www.state.gov/documents/organization/268976.pdf. In a city in West Java, all 29

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Christian churches have been forcibly shut down and some destroyed. *See* Pritchett Aff., Ex. F, "In Religion's Name Abuses against Religious Minorities in Indonesia," *Human Rights Watch* (Feb. 28, 2013) *available at* <u>https://www.hrw.org/report/2013/02/28/religions-name/abuses-</u> against-religious-minorities-indonesia.

Further, the blasphemy law has been used to prosecute more non-Muslims than ever before, including the prosecution of Jakarta Governor Basuki "Ahok" Purnama (a Christian) for making statements about Islamist militant groups and insulting the Quran. *See* Pritchett Aff., Ex. K, U.S. Department of State, International Religious Freedom Report for 2016, *available at* https://www.state.gov/documents/organization/268976.pdf . The Ahok verdict included Quran verses and a call to elect only Muslim leaders. Pritchett Aff., Ex. L, Andreas Harsono, "Indonesia's Courts Have Opened the Door to Fear and Religious Extremism," *Human Rights Watch Dispatch* (May 10, 2017), *available at* https://www.hrw.org/news/2017/05/10/indonesiascourts-have-opened-door-fear-and-religious-extremism. Other interpretations of the verses include warning Muslims against having Jews and Christians as allies, friends, or leaders, "meaning that Muslims should not vote for a Christian". *See* Pritchett Aff., Ex. M, Sidney Jones, "Indonesia's Illiberal Turn: After the Ahok Case," *Foreign Affairs* (May 26, 2017), *available at* https://www.foreignaffairs.com/articles/indonesia/2017-05-26/indonesias-illiberal-turn.

Unless these facts and others like these are considered before removal, the Petitioners'/Plaintiffs' rights will be violated.

#### ii. Class-wide emergency relief is necessary.

Approximately 70 individuals are currently remaining in Operation Indonesian Surrender. Pontoh Aff. ¶ 11. It has been difficult to get firm detailed information on each and every one of those participants, immigration law is complex, and each has a different immigration history and

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different set of circumstances relevant to their claims against removal. Variation in those histories will mean there is variation in what precise bases for immigration relief is applicable, but each and every one of the Petitioners/Plaintiffs and the putative class they seek to represent faces grave danger in Indonesia, and is entitled to a meaningful chance to raise those claims and have them heard.

#### C. THE BALANCE OF HARMS AND PUBLIC INTEREST WEIGH HEAVILY IN FAVOR OF EMERGENCY RELIEF.

The balance of harms and public interest weigh strongly in favor of granting emergency relief. No discernible harm will accrue to the government from allowing Plaintiffs/Petitioners to seek the relief to which they are entitled. It is a remedy that Respondents/Defendants could easily have provided by ending the program in an orderly manner, rather than, as in the case of Petitioners/Plaintiffs Sombah, denying their Stay on September 18, 2017, and asking them to report on September 25, 2017, with a plane ticket to Indonesia for two days later. Joyce Aff. at ¶ 6. There is no possible way that a motion to reopen can reasonably be prepared and submitted on that timeline, and as such, their right to seek immigration relief to which they may be entitled will be extinguished if they are removed as planned. *Id.* at ¶ 6.

It is hard to identify any countervailing harm to the government or to the public interest. The Petitioners/Plaintiffs and the class they seek to represent were invited by the government to voluntarily participate in Operation Indonesian Surrender. Many were specifically selected because they were deemed to be "upstanding" members of the community. They are law abiding members of their communities, not criminals, and they have consistently complied with ICE's directions pursuant to the Orders of Supervision. Thus, there are no exigent circumstances to justify the government's current rush to deport them to a country that is no longer their home and that, in fact, is quite dangerous for them. They have lived here peacefully and compliantly for

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many years. There is no harm in allowing them to stay a few months longer to ensure that they are afforded the due process the Fifth Amendment of the Constitution guarantees them before a final decision is made regarding their removal.

#### V. CONCLUSION

Petitioners/Plaintiffs are likely to succeed on the merits of their claim that their Fifth Amendment rights are being violated by Respondents/Defendants' actions in effectively blocking their ability to seek reopening of their immigration proceedings based on changed country conditions and/or other applicable bases. If they are not allowed more time for this process, they will face irreparable harm. Accordingly, a Temporary Restraining Order and Stay of Removal should be entered on their behalf, and preliminary injunctive relief should be granted.

Respectfully Submitted,

#### PETITIONERS/PLAINTIFFS

By Their Attorneys,

/s/ W. Daniel Deane W. Daniel Deane (BBO# 568694) Nathan P. Warecki (BBO# 687547) NIXON PEABODY LLP 900 Elm Street Manchester, NH 03101

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Date: September 25, 2017

#### **CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on September 25, 2017, and are being transmitted by electronic mail to the Office of the United States Attorney for the District of Massachusetts.

/s/ Ronaldo Rauseo-Ricupero

#### UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

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ELAINE C. DUKE Acting Secretary of the U.S. Department of Homeland Security	
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#### AFFIDAVIT OF SYDNEY PRITCHETT

I, Sydney Pritchett, under oath, depose and say as follows:

- I am an associate with the law firm of Nixon Peabody LLP, attorneys of record for Petitioners/Plaintiffs. I am admitted to practice in the District of Massachusetts.
- 2. Attached hereto, at the exhibits listed below, are true and correct copies of the following materials:
  - A. Shawne K. Wickham, "Somersworth man: 'DACA saved me, but my parents are facing deportation'," *Manchester Union Leader* (Sept. 24, 2017), *available at* <u>http://www.unionleader.com/Somersworth-man:-DACA-saved-me,-but-my-</u> parents-are-facing-deportation;

- B. Jennifer Keefe, "ICE seeks surrender of illegal immigrants," *Foster's Daily Democrat*, (Sept. 1, 2010), *available at* <u>http://www.fosters.com/article/20100901/GJNEWS\_01/709019921;</u>
- C. Jeanne Shaheen, "Another View Jeanne Shaheen: Trump should let NH'S Indonesian community stay," *Manchester Union Leader* (Sept. 10, 2017), *available at* <u>http://www.unionleader.com/Another-View-Jeanne-Shaheen-Trump-should-let-NHs-Indonesian-community-stay-09112017;</u>
- D. U.S. Department of State, International Travel Country Reports, *available at* https://travel.state.gov/content/passports/en/country/indonesia.html;
- E. U.S. Commission on International Religious Freedom, "Indonesia," 2017 Annual Report, *available at http://www.uscirf.gov/sites/default/files/Indonesia.2017.pdf*;
- F. Global Restrictions on Religion Rise Modestly in 2015, Reversing Downward Trend, Pew Research Center (Apr. 11, 2017), available at <u>http://www.pewforum.org/2017/04/11/global-restrictions-on-religion-rise-</u> modestly-in-2015-reversing-downward-trend/;
- G. Bureau of Consular Affairs, U.S. Dep't of State, Country Information: Indonesia (Apr. 17, 2017), available at <u>https://travel.state.gov/content/passports/en/country/indonesia.html;</u>
- H. Jonathan Egmonth, "Islamist Intolerance Poses a Growing Threat to Indonesia's Minorities," *TIME* (Apr. 20, 2016), *available at* <u>http://time.com/4298767/indonesia-intolerance-muslim-islamist-minorities-lgbt-christians-hardliners/;</u>
- I. Krithika Varagur, "Indonesia's Moderate Islam is Slowly Crumbling," Foreign Policy (Feb 14, 2017), available at <u>http://foreignpolicy.com/2017/02/14/indonesias-moderate-islam-is-slowlycrumbling/;</u>
- J. UN High Commissioner for Refugees (UNHCR), Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic

Review: 3rd Cycle, 27th Session - Indonesia, September 2016, *available at* <u>http://www.refworld.org/docid/59158ed24.html;</u>

- K. Andreas Harsono, "Indonesia's Religious Minorities Under Threat: Police, Militant Islamists Implicated in Religious Freedom Abuses," Human Rights Watch Dispatch, (Feb. 2, 2017), available at <u>https://www.hrw.org/news/2017/02/02/indonesias-religious-minorities-under-threat;</u>
- L. U.S. Department of State, International Religious Freedom Report for 2016, *available at https://www.state.gov/documents/organization/268976.pdf*;
- M. Andreas Harsono, "Indonesia's Courts Have Opened the Door to Fear and Religious Extremism", *Human Rights Watch Dispatch* (May 10, 2017), *available at* <u>https://www.hrw.org/news/2017/05/10/indonesias-courts-have-opened-door-fear-and-religious-extremism</u>; and
- N. Sidney Jones, "Indonesia's Illiberal Turn: After the Ahok Case," *Foreign Affairs* (May 26, 2017), *available at* <u>https://www.foreignaffairs.com/articles/indonesia/2017-05-26/indonesias-</u> <u>illiberal-turn.</u>

Signed under the pains and penalties of perjury this 25<sup>th</sup> day of September, 2017.

/s/ Sydney Pritchett\_

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# **EXHIBIT** A

September 23. 2017 9:49PM

## Somersworth man: 'DACA saved me, but my parents are facing deportation'

By SHAWNE K. WICKHAM New Hampshire Sunday News

SOMERSWORTH - In the midst of a family nightmare, Timothy Sombah still believes in the American dream.

Sombah, 29, is protected, at least for now, by the DACA (Deferred Action for Childhood Arrivals) program. But his parents, who came to this country 14 years ago on tourist visas, have been ordered by immigration officials to return to their native Indonesia.

He doesn't know how he can bear seeing his parents leave. He's their only child and the three of them have always been together.

"It's hard," he said. "I can't say how many times I've cried myself to sleep."

"But I feel like I have to be strong for them. I'm the one helping them. My parents would rather abide by the law than become



(/storyimage/UL/20170924/NEWS20/170929654/AR/0/AR-170929654.jpg?q=100)

Timothy Sombah earned his certificate in information systems technology from Great Bay Community College. His parents, Freddy and Poppy Sombah, attended his graduation ceremony in May. (Courtesy photo) fugitives, so they're just following all the protocols."

His parents have been under what Immigration and Customs Enforcement calls an "order of supervision" for some time, Sombah said. They are authorized to work, and required to check in periodically with the ICE office in Manchester.

Starting in January, they had to check in monthly.

"We thought that by going through this order of supervision, it would open up a way somehow, but it didn't," Sombah said. "And look at them now."

They learned later that their former lawyer had missed a crucial deadline to file a motion to reopen their case. Just recently, on Timothy's 29th birthday, they were notified that their final appeal had been denied.

The Sombahs were told to bring airplane tickets to last month's ICE check-in.

Those tickets are for this Wednesday.

His dad is 64, his mom 61.

Freddy and Poppy Sombah came to the



(/storyimage/UL/20170924/NEWS20/170929654/EP/1/1/EP-170929654.jpg?q=100)

Timothy Sombah performs during the Christmas service at Bethel Church of God last year in Somersworth. He's also a worship leader at Next Level Church in Somersworth. (Courtesy photo)



#### (/storyimage/UL/20170924/NEWS20/170929654/EP/1/2/EP-170929654.jpg?q=100)

Poppy and Freddy Sombah, seen during a visit to Ellis Island National Museum, came to the United States in 2003 on tourist visas with their then-15-year-old son Timothy. He now has protection under DACA (Deferred Action for Childhood Arrivals), but his parents are being deported. (Courtesy)

**Related Stories** 

Democratic leaders, Trump reach deal on DACA (/politics/Democratic-leaders-Trump-reach-dealon-DACA-09132017) United States in 2003 on tourist visas with their then-15-year-old son. They were Christians, and persecution against their 19 Indonesians living in NH receive deportation orders (/social/19-Indonesians-living-in-NH-receive-deportation-orders-09052017)

religious minority was rising, Sombah said. "I was little back then so I didn't really quite understand what it was," he said.

His parents have told him that Islamic extremists sometimes interrupted church services, beating people up and halting worship. And Sombah remembers a day when large gangs attacked the Christian school he was attending.

"We were surrounded," he said. "I was able to run away."

He managed to jump aboard public transportation. "This is something that I won't ever forget ... . As soon as I got on that, I turned around and I see this ocean of people. It was crazy."

Soon after, his parents managed to gather the funds, and the paperwork, to leave. They came to New Hampshire, where they have relatives, and settled in Somersworth, which has a vibrant Indonesian community.

They felt welcome, Sombah said. "People are very nice here."

The family applied for asylum, based on religious persecution. Sombah remembers being in the courtroom when the decision was announced: "The judge said our evidence wasn't good enough."

"My heart just dropped."

In the years since, they filed appeal after appeal. Meanwhile, Sombah graduated from Dover High School and went to work to help support the family.

Last year, he earned his certification in information systems technology at Great Bay Community College. He works as a fiber network engineer for a subcontractor for Comcast, where he said co-workers have been supportive.

After the DACA program was created in 2012, the family applied for that status for Timothy. And after a rigorous process that included background checks, proof of residency and education transcripts, he was certified as a so-called Dreamer.

"Fast-forward to now ... DACA saved me, but my parents are facing deportation," he said.

Sombah said many people are misinformed about DACA and Dreamers like him.

"They say we get special treatment from the government," he said.

But his family has never gotten financial aid, he said. He can't even apply for federal college aid. "Everything came out of my own pocket, out of my savings," he said.

He and his parents have work authorizations that have to be renewed every two years, he said. They all pay taxes and pay into Social Security - a benefit they'll never be able to collect.

He never expected this to happen to his family. "I thought when we came here, it would be smooth sailing. We'd apply for asylum and we would be good. But it wasn't the case."

His parents have to check in with ICE on Monday. Sombah will be at work. "If anything happens, I don't think I'll have the heart to be there and to see things go down," he said.

But he's not giving up hope. "I was brought up believing in God and that miracles do happen," he said. "I feel like if I didn't have that to believe in, I probably would have gone crazy by now."

Sombah is a worship leader at two Somersworth churches, Bethel Church of God, an Indonesian church, and Next Level Church.

Lindsey Archer often leads services with Sombah at Next Level Church. She said he's devoted to his parents.

What's happening to his family is "heartbreaking," Archer said.

"He has a lot of hope; that's just who he is. And he has a lot of faith," she said. "But of course, you can just see his heart breaking."

Her church community has been praying for the family, she said.

Archer said there's a lot of ignorance about who the Dreamers are. "These are not numbers; these aren't figures," she said. "These are people who have families, who have connections, who have built lives here.

"And ripping that away is just un-human."

Has Sombah thought about leaving with his parents? It has crossed his mind, he said. "But you know what? I think this is where I belong."

And, he said, "My parents would want me to stay and have my future here."

His mother has begged him to marry his American girlfriend, so he can obtain legal status before DACA ends.

But he said, "I don't think that's right. I do love her, but I feel like I want to get married on our terms, when we are ready."

If he could speak with political leaders, Sombah would tell them "they really need to start working on immigration reform."

"And the first step for that would be to pass the Dream Act for us Dreamers. And maybe you can do something about our parents that are taxpayers. They're not criminals; they have clean records.

"Have some compassion. Have some mercy for them. Fight for them."

Instead, the federal government is sending the Sombahs home.

But Tim Sombah says for him, home is the United States. "I want to build a career here," he said. "I want to give back to the community."

He hopes that telling his story will somehow help keep his family together. "I feel like if I fight for this, and we win this, I would have accomplished something in life," he said. "It would be good to know that my voice was heard, that the American dream is real."

swickham@unionleader.com

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# **EXHIBIT B**



### **ICE seeks surrender of illegal immigrants**

#### By JENNIFER KEEFE / jkeefe@fosters.com

Posted Sep 1, 2010 at 3:15 AM

DOVER — This week, non-criminal illegal immigrants in the state who have been served a final order of removal may have an "avenue of relief," according to a Department of Homeland Security official.

Starting Monday and ending Thursday, tents set up outside an unmarked bus on the back part of the Strafford County Superior Court parking lot serve as a place illegal immigrants may go for a voluntary surrender.

Harold Ort, vice president of Public Affairs for DHS and Immigration Customs Enforcement, said it's a "humanitarian effort" between Indonesian churches throughout the state and DHS.

"ICE is working with a coalition of Indonesian churches in the area about the possibility of a voluntary surrender for certain non-criminal aliens that have final orders of removal," Ort said.

Capt. Joseph DiGregorio with the Strafford County Sheriff's office said the county is not actively participating in the effort; they are acting as a "liaison" for immigration.

He said ICE asked for a centralized location to work out of and, as the courthouse parking lot isn't under the jurisdiction of the sheriff, the county commissioner granted permission for the bus to park there.

Ort said the program is not unique to New Hampshire and can be organized at the discretion of DHS field offices all over the country. For New Hampshire, the field office is located in Boston, Mass.

"It's a good program and it's really a humanitarian effort," he said. "The whole purpose is bringing folks out of the shadows and saying listen, we'll work with you. They're hiding in fear and we don't want that — no one wants that." Ort declined to offer further details about the effort, but said the church leaders will approach DHS suggesting relief for "upstanding members of the community."

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# **EXHIBIT C**

September 10. 2017 11:33PM

## Another View -- Jeanne Shaheen: Trump should let NH's Indonesian community stay

By JEANNE SHAHEEN

President Trump's decision to end the program, known as DACA, that protects young undocumented immigrants who were brought here as children, has upended the lives of hundreds of thousands of Dreamers, including nearly 400 who live in New Hampshire.

But Dreamers aren't the only ones. Immigrants from all walks of life are being slated for deportation, irrespective of their individual circumstances or value to their community.

Here in New Hampshire, our Indonesian community, who came here decades ago fleeing religious persecution, is being targeted. They've found jobs to support themselves, a community to call home, and a place to practice their Christian faith without fear.

But in recent days, dozens of these individuals have been told by Immigration and Customs Enforcement (ICE) that they must purchase plane tickets and depart by October, and many more wait anxiously to learn their fate.

It doesn't have to be this way. In 2009, working with these families and members of their church community, my office helped negotiate an agreement with ICE to allow them to remain in New Hampshire and obtain work permits in exchange for a pledge to regularly touch base with ICE.

Regrettably, this agreement was recently reversed by ICE and deportation orders have been served. Imagine the trauma of being told that the life you have painstakingly built will be taken away and that you could soon be separated from your loved ones and community. I've read heartbreaking letters from their young children, pleading that they not be separated from their parents and siblings.

Foster's Daily Democrat spoke for the community in criticizing the government's action as "a cruel abandonment of America's values." I agree.

The United States has always been a safe harbor for people being persecuted for their faith. Since the first European immigrants arrived in New England seeking religious

freedom, adherents of every creed have found sanctuary in America's "shining city on a hill."

The Indonesian families' agreement, which has worked well for eight years, allowed these individuals to learn our language, find gainful employment, build their families and become integral members of our Granite State family. They pose no threat to public safety or homeland security. To the contrary, they have become our friends and neighbors. Now they face the stark reality of returning to a country where religious persecution is increasing in frequency and intensity.

The agreement reached with ICE exemplified the kind of thoughtful and nuanced consideration that should be applied in immigration cases. Unfortunately, President Trump's executive orders have caused ICE to abandon sensible prioritization of undocumented persons.

Rather than concentrate on those with violent criminal records, the agency's new approach makes no distinction between dangerous individuals and those legitimately seeking refuge. The agency is sweeping up vulnerable people and wrongly making them targets.

With limited resources, the public would be best served by targeting dangerous criminals.

ICE's policy reversal has sent shockwaves of fear and panic across the nearly 2,000 Indonesian immigrants living in the Seacoast Region and is deeply unsettling to their friends and neighbors. The families' church and community have rallied to their cause.

I've requested that ICE reexamine its decision with regard to these immigrants, and I've recently spoken with members of the Trump administration to urge them to allow these families to live their lives in peace.

The United States has a long history, across Republican and Democratic administrations alike, of exercising discretion and humane judgment in determining which immigrants to deport. It does not serve our nation's interests to randomly and abruptly deport families living and working here peacefully.

This practice is not strategic and is disruptive to our communities. The administration's immigration enforcement has been heavy-handed, at best, and often harmful in ways that betray our nation's values.

There's no question that America's immigration system is broken, but a dragnet approach is clearly not the answer. Congress needs to work on a bipartisan basis to craft a comprehensive, permanent fix that includes a practical plan to deal with the millions of undocumented immigrants who are productive members of our communities. In the meantime, I urge the Trump administration to exercise commonsense discretion and restraint in dealing with the immigrant community, including enforcement policies that reflect our nation's humanitarian values and ideals.

Jeanne Shaheen, D-Madbury, represents New Hampshire in the United States Senate.

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# **EXHIBIT D**



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Extremists may target both official and private establishments, including hotels, bars, nightclubs, shopping areas, restaurants, and places of worship. Whether at work, pursuing daily activities, or traveling, you should be aware of your personal safety and security at all times.

On January 14, 2016, terrorists using guns and explosives attacked near the Sarinah Plaza in Central Jakarta, killing four civilians, including a foreigner, and injuring 17 others. ISIL claimed responsibility and is believed to have inspired or provided support for a handful of small-scale attacks elsewhere in Indonesia since then. In 2002, more than 200 foreign tourists and Indonesian citizens were killed in Bali's nightclub district. Since 2002, Indonesian police and security forces have disrupted a number of terrorist cells. Police have arrested more than 1,200 individuals on terrorism-related charges since 2002 and have greatly reduced the capacity of domestic terrorist organizations, though extremists in Indonesia continue to aspire to carry out violent attacks against Indonesian and Western targets.

Demonstrations are very common in Jakarta and other cities. You should avoid demonstrations and other mass gatherings, since even those intended to be peaceful can become violent.

Currently, travel by U.S. government personnel to the provinces of Central Sulawesi and Papua is restricted to mission-essential travel that is approved in advance by the Embassy security office.

**Crime:** Pick-pocketing, theft, armed car-jacking, and residential break-ins are common. Avoid travelling to isolated areas late at night. Beware of your surroundings, particularly vehicles or individuals that might be following you.

Use a reputable taxi company or hire a taxi either at a major hotel or shopping center. Travelers have been robbed in taxis that have been painted to look like legitimate taxis.

Credit card fraud is a serious and growing problem in Indonesia. Avoid using credit cards when possible. Criminals have "skimmed" credit/debit cards to access and drain bank accounts. Use an ATM in a secure location and check the machine for evidence of tampering. Monitor your account statements regularly.

Tourists and Indonesians have suffered from serious illness and have even died from "drink-spiking" and drink poisoning incidents, particularly in clubs and nightspots in urban and tourist areas.

See the **Department of State** and the **FBI** pages for information on scams.

**Victims of Crime:** Victims of sexual assault should seek prompt medical assistance, contact the Embassy, and call the local police at 112. For a criminal investigation to be initiated by the police, the victim must make a full statement to the local police, in person.

See our webpage on help for U.S. victims of crime overseas.

We can:

- help you find appropriate medical care.
- assist you in reporting a crime to the police.
- contact relatives or friends with your written consent.
- explain the local criminal justice process in general terms.
- provide a list of local attorneys.
#### Indonesia

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- provide our information on victim's compensation programs in the U.S.
- provide an emergency loan for repatriation to the United States and/or limited medical support in cases of destitution.
- help you find accommodation and arrange flights home.
- replace a stolen or lost passport.

#### Local Laws & Special Circumstances

Health

**Travel & Transportation** 

**Road Conditions and Safety:** Traffic in Indonesia is dangerous, congested, and undisciplined. Traffic signals are frequently ignored and often in disrepair. Motor vehicles share the roads with other forms of transportation, such as pedicabs and pushcarts. Buses and trucks are often dangerously overloaded and travel at high speeds. Accidents between a car and a motorcycle are invariably viewed as the fault of the driver of the car. Consider these risks before driving your own vehicle, especially if you are unaccustomed to Indonesian road conditions. When an accident results in personal injury, Indonesian law requires both drivers to await the arrival of a police officer to report the accident.

Please refer to our Road Safety page for more information. Also, visit Indonesia's national tourist office online for road safety information.

**Public Transportation:** Air, ferry, and road accidents that result in fatalities, injuries, and significant damage are common. While all forms of transportation are regulated in Indonesia, oversight is spotty, maintenance may not be properly performed, and rescue and emergency capacity is limited. Indonesia has experienced several fatal plane crashes and non-fatal runway overruns in recent years. Also in recent years, several ferry accidents and a train collision resulted in dozens of fatalities and even more injuries because of over-crowding and unsafe conditions.

See our Road Safety page for more information.

Aviation Safety Oversight: The U.S. Federal Aviation Administration (FAA) has assessed the Government of Indonesia's Directorate General of Civil Aviation as being in compliance with International Civil Aviation Organization (ICAO) aviation safety standards for oversight of Indonesia's air carrier operations. Further information may be found on the FAA's safety assessment page \_

Since 2014, a number of private pilots have inadvertently crossed into Indonesian airspace and have been detained and paid heavy fines. If you intend to fly on private aircraft through Indonesian airspace, get correct clearances from Indonesian aviation authorities before you depart.

**Maritime Safety and Security:** Inter-island travel by boat or ferry can be dangerous: storms can appear quickly, vessels may be over-crowded and lack basic safety equipment, and safety standards vary between providers. A number of ferries have sunk, resulting in loss of life. The Indonesian Search and Rescue Agency records boat and ferry accidents resulting in injuries and deaths, yearly. Make sure you are satisfied with safety standards before travelling, including safety equipment and life jackets.

**Piracy:** Maritime piracy and other related crimes in and around Indonesian waters continue. Recent reports include thefts of valuables or cargo from boats that are in port and out at sea. Before traveling by sea, especially in the Strait of Malacca between Riau Province and Singapore, and in the waters north of Sulawesi and Kalimantan, review the current security situation with local authorities. Be vigilant, reduce opportunities for theft, establish secure areas on board, and report all incidents to the coastal and flag state authorities.

Mariners planning travel to Indonesia should also check for U.S. maritime advisories and alerts at <a href="https://www.marad.dot.gov/msci">www.marad.dot.gov/msci</a> . Information may also be posted to the U.S. Coast Guard homeport website (https://www.marad.dot.gov/msci), and the NGA broadcast warnings website

https://msi.nga.mil/NGAPortal/MSI.portal ; select "broadcast warnings."

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Please see Fact Sheet for this country.

Assistance for U.S. Citizens

U.S. Embassy Jakarta Jl. Medan Merdeka Selatan No. 3 - 5 Jakarta 10110, Indonesia

- Telephone: +(62)(21) 3435-9000
- Emergency After-Hours Telephone: +(62)(21) 3435-9000 ext. 0 (operator)
- Fax: +(62)(21) 385-7189
- Email: JakartaACS@state.gov
- U.S. Embassy Jakarta

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Enrolling in this free service will allow us to better assist you in case of an emergency while you are abroad.

ENROLL

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# **EXHIBIT E**

TIER 2

#### **KEY FINDINGS**

Indonesia is often characterized as a model of majority-Muslim democracy. Yet in some parts of the country, discrimination and violence against religious minorities continue, often instigated or inspired by hardline individuals and groups. The Indonesian government often intervenes when abuses arise, particularly if they involve violence; yet by many accounts, violations of the freedom of religion or belief continue to rise and/or increase in intensity, and experts believe many incidents go unreported. Non-Muslims and non-Sunni Muslims endure ongoing difficulties obtaining official permission to build houses of worship, experience vandalism at existing houses of worship, and are subject to sometimes violent protests that interfere with their ability to practice their faith. In 2017, USCIRF again places Indonesia on its Tier 2, where it has been since 2004.

#### **RECOMMENDATIONS TO THE U.S. GOVERNMENT**

- Urge the Indonesian government at central, provincial, and local levels to comply with the Indonesian constitution and international human rights standards by:
  - Overturning the 2008 Joint Ministerial Decree on the Ahmadiyya community and any provincial bans on Ahmadi religious practice;
  - Amending or repealing article 156(a) of the Penal Code and unconditionally releasing anyone sentenced for "deviancy," "denigrating religion," or "blasphemy;" and
  - Amending the 2006 Joint Regulation on Houses of Worship to allow religious communities the right to build and maintain their places of worship free from discrimination and threats;

- Offer technical assistance and guidance to the Indonesian government as it drafts legislation protecting religious freedom, as appropriate;
- Raise in public and private with Indonesian officials the need to protect Indonesia's tradition of religious tolerance and pluralism by investigating and prosecuting individuals or groups who discriminate or incite or perpetrate acts of violence against religious communities;
- Prioritize funding for governmental, civil society, and media programs that promote religious freedom, counter extremism, build intra-faith and interfaith alliances, expand the reporting ability of human rights defenders, train

government and religious officials to mediate sectarian disputes, and enhance rule of law and build capacity for legal reform advocates, judicial officials, and parliamentarians to better fulfill Indonesia's obligations under international human rights law; and

 Help to train Indonesian police and counterterrorism officials at all levels to better address sectarian conflict, religion-related violence, and terrorism, including violence against places of worship, through practices consistent with international human rights standards, while ensuring those officers have not been implicated in past human rights abuses pursuant to Leahy Amendment vetting procedures.

#### BACKGROUND

Indonesia is the world's most populous Muslimmajority country: more than 87 percent of its 258 million people identify as Muslim. The majority of Indonesia's Muslims are Sunni, although up to three million are Shi'a and up to 400,000 Ahmadis. Protestant Christians make up 7 percent of the population, Catholics approximately 3 percent, and Hindus less than 2 percent. In some parts of the country, Chris-

tians or Hindus comprise the majority, which means that even though Muslims are the majority overall, in certain areas they are in the demographic minority. Indonesia is secular and recognizes six religions: Islam, Catholicism, Prot-

Tensions ran high during the last few months of the reporting period because of politically charged blasphemy accusations against Jakarta Governor Basuki "Ahok" Tjahaja Purnama.

example, in West Papua, non-Muslims feel increasing pressure and discrimination from Muslims. Some Indonesians are concerned by what they perceive is the "Arabization" or "creeping Islamization" of the country's more pluralistic form of Islam. Hardline groups such as the Islamic Defenders Front (FPI) and the country's top Muslim clerical body, the Indonesian Council of Ulema (MUI), have long held their own views of the proper ways to practice Islam. This perspective shuns

> non-Sunni Muslims, such as Shi'a Muslims and Ahmadis. Some Indonesians attribute this increasingly conservative, less tolerant brand of Islam to the growing influence of Saudi Arabia, including that country's plans to expand its

estantism, Buddhism, Hinduism, and Confucianism. Smaller segments of the population practice unrecognized faiths, such as Baha'ism, Sikhism, Judaism, Falun Gong, and traditional belief systems.

Individuals of many faiths—even beyond the six officially recognized religions—have the ability to practice, worship, and teach freely, although this varies from province to province across Indonesia's vast archipelago. Some religiously diverse neighborhoods have long traditions of interfaith interaction and cooperation, and the government is believed to be working on legislation intended to strengthen religious freedom, although the contents are unknown. Even so, throughout its history, less tolerant attitudes have been present in Indonesia and continue today in some parts of the country. For Institute for the Study of Islam and Arabic (LIPIA). Based in Jakarta, Indonesia's capital, LIPIA offers all-expensepaid education to Indonesian students, which for some could lead to the opportunity to study in Saudi Arabia. But this Saudi-funded education adheres to strict, Salafi Islam, which considerably differs from the style of Islam prevalent in Indonesia.

Tensions ran high during the last few months of the reporting period because of politically charged blasphemy accusations against Jakarta Governor Basuki "Ahok" Tjahaja Purnama. (For more information, see the Blasphemy section below.) Thousands of Muslims, including hardliners, accused Ahok of insulting the Qur'an and staged several protests and rallies in Jakarta. The Indonesian government urged calm and understanding and also respected the right of individuals to protest peacefully. Furthermore, President Joko "Jokowi" Widodo ordered additional security forces to maintain public order and deter violence. Prominent Muslims, including from the two largest Muslim organizations, Nahdlatul Ulama (NU) and Muhammadiyah, discouraged their members from participating in protests. However, some critics blamed the new government for not doing enough to control hardline individuals and groups in the first place. At the end of the reporting period, Ahok garnered the most votes in Jakarta's three-way gubernatorial election on February 15, 2017, but failed to secure more than 50 percent of the vote that would have prevented a second-round election in April.

In 2016, Indonesia's independent National Human Rights Commission, Komisi Nasional Hak Asaki Manusia (Komnas HAM), continued to focus on freedom of religion or belief. In January 2017, Komnas HAM issued its findings of religious freedom violations for 2016. Komnas HAM found that some provinces, such as West Java, experience far more religious intolerance than others, and that regional government officials often are responsible for either tolerating or directly perpetrating abuses, an observation echoed by the Setara Institute, a local nongovernmental organization. In December 2016, NU echoed the findings about rising religious intolerance.

# RELIGIOUS FREEDOM CONDITIONS 2016–2017

# Forced Closures of and Violence against Religious Properties

Local authorities and hardliners often rely on the 2006 Joint Regulation on Houses of Worship to deny or restrict parishioners' access to houses of worship. Under the 2006 regulation, houses of worship are required to obtain a list of 90 congregation members; signatures from 60 local households of a different faith; recommendations from the local religious affairs office and local Religious Harmony Forum, Forum Kerukunan Umat Beragama (FKUB); and approval from the sub-district head. The regulation provides local governments the latitude to deny permits to smaller congregations and the authority to close or tear down houses of worship built prior to 2006. Hardliners, typically those belonging to the majority faith in a particular area, cite alleged faulty or missing permits or other regulation-related paperwork as justification to protest houses of worship or to pressure local officials to deny or revoke permissions or close the structures. At times, mob violence leads to significant property damage and displacement of affected religious communities, such as in 2015 at Christian churches in Aceh Singkil District in Aceh and at a Muslim mosque in Tolikara, Papua.

In July 2016, a mob attacked and burned down several Buddhist temples and other property in North Sumatra. In recent years, closures of and threats and attacks against Buddhist sites have occurred in other parts of the country. Reports indicated the July violence may have started when a woman of Chinese descent expressed her frustration at the loud microphone volume from a nearby mosque. Police were able to prevent some of the attacks from spreading to other structures, and authorities later detained seven individuals and named several others as suspects. Muhammadiyah, Indonesia's second-largest Muslim group, called for tolerance and calm after the incident, and President Jokowi instructed the National Police to apprehend the perpetrators.

In July 2016, a mob attacked and burned down several Buddhist temples and other property in North Sumatra.

In April 2016, Muslim hardliners in Bekasi, West Java, closed the Santa Clara Catholic Church only weeks after the new building opened. The previous month, the local FKUB confirmed the validity of the church's permit after many of these same hardliners prevented access to church construction and demanded the permit be revoked. The church's effort to obtain the permit, which was granted in 2015 under the 2006 regulation, reportedly took nearly two decades. Despite support for the church's construction by Bekasi's mayor, Rahmat Effendi, critics accused the local government and police of failing to protect the Catholic church from closure.

In September 2016, hardline protestors, including from FPI, gathered to object to local authorities' decision to renew permits for a Protestant church in Makassar. Led by the protests of nearby residents who opposed the Pasar Minggu Protestant Church in South Jakarta, local officials declared in September 2016 that the church would close for lacking the proper permits. Religious Affairs Minister Lukman Hakim Saifuddin intervened to request that the local government assist the congregation in moving the church to a different location.

In November 2016, a single attacker set off an explosion at the Protestant Oikumene Church in Samarinda, East Kalimantan Province, killing a two-year-old girl and injuring three other children. Police ultimately arrested seven men in connection with the attack, all suspected of having links to or aspirations of joining the Islamic State of Iraq and Syria (ISIS). In a separate incident in August 2016, a man attempted and failed to detonate a bomb at a Catholic church in Medan, North Sumatra. After finding a paper with an ISIS symbol in the man's possession, police looked at possible terrorist links.

At the end of the reporting period, the Indonesian Christian Church (GKI) Yasmin in Bogor, West Java, had reportedly reached an agreement with Bogor Mayor Bima Arya Sugiarto to reopen the church. Local government officials succumbed to pressure from hardliners and suspended the church's permit in 2008; it has remained closed despite a 2010 Supreme Court ruling ordering the church be reopened. The compromise would allow the church to reopen if it agrees that a mosque can be built on church grounds.

#### Ahmadis

The government's 2008 Joint Ministerial Decree bans Ahmadis from spreading their faith-a crime punishable by up to five years in prison. Additionally, the MUI issued a fatwa (religious edict) declaring the Ahmadiyya faith to be deviant and heretical. Since then, some religious leaders and entire provinces, through the force of law, have expanded upon MUI's fatwa by restricting Ahmadis even further, banning all Ahmadi activities. As a result, authorities have closed approximately 100 Ahmadi mosques and failed to properly investigate the destruction of several others. Ahmadis living throughout the country have reported difficulties obtaining ID cards or marriage licenses. Also, more than 100 Ahmadis remain internally displaced in Mataram, West Nusa Tenggara, after sectarian violence forced their eviction more than 10 years ago. The year 2016

marked five years since a violent mob attacked several Ahmadis in Cikeusik, Banten Province, killing three men and wounding several others. An Indonesian court convicted 12 men in the attacks but issued lenient sentences, the longest of which was only five and a half months; none of the men were charged with murder.

In February 2016, police and military forces evicted women and children of the Ahmadiyya faith from Sungailiat District in Bangka Regency. Acting on some Sunni Muslim residents' objections to the Ahmadiyya faith, local officials tried to force the Ahmadis to leave their faith and "return to Islam" or face expulsion. The eviction occurred after local residents harassed and threatened the Ahmadis.

In February 2016, police and military forces evicted women and children of the Ahmadiyya faith from Sungailiat District in Bangka Regency.

In May 2016, unknown vandals attacked and destroyed the Ahmadi Al Kautsar Mosque in Central Java. The mosque reportedly had previously obtained the proper permits under the 2006 Joint Regulation on Houses of Worship. In July 2016, officials closed another Ahmadi house of worship, the Al-Furqan Mosque in West Java. Throughout 2016, Ahmadis in South Jakarta were forced to pray outside the An Nur Mosque after the local government sealed the building in July 2015. In February 2017, authorities closed the Al-Hidayah Mosque in Depok, West Java, and posted notice that all Ahmadi activities were "illegal" after the FPI and other hardliners threatened both the mosque and Ahmadis.

#### Shi'a Muslims

Some Shi'a Muslims practice Sunni Islam in public to avoid being discriminated against or singled out as different. Although hardliners and others have persecuted Shi'a Muslims for years, there is mounting suspicion about the correlation between the growing influence of Saudi Arabia in Indonesia (for more information, see the Background section) and rising anti-Shi'a sentiment.

#### **Baha'is**

Indonesia's Baha'i community still experiences government discrimination. In 2016, members of the Baha'i faith continued to report frustration at not being able to obtain state recognition of civil marriages.

#### Gafatar

During 2016, the government continued its attack on banned faith sect Fajar Nusantara Movement, also known as Gafatar, and some former members of the group reported various forms of discrimination. In January 2016, the government forcibly evicted thousands

of individuals from their homes in East and West Kalimantan provinces, allowed mobs to set fire to the individuals' homes, and temporarily sent many followers to "reeducation" centers. The Indonesian govern-

ment disbanded the group in 2015 after declaring that its practices deviated from Islam. In February 2016, the MUI issued a *fatwa* pronouncing the group to be heretical. In March 2016, the government issued a joint decree to prevent Gafatar members from conducting activities and spreading their beliefs. Then, in May 2016 the government arrested three Gafatar founders and charged them with blasphemy and treason. In March 2017, after the reporting period, the three men were cleared of treason but found guilty of blasphemy: Mahful Muis Tumanurung and Ahmad Musadeq received five-year prison sentences, and Andi Cahya received three years.

#### **Blasphemy**

In addition to the trials against Gafatar members mentioned above, blasphemy charges were brought against Ahok for allegedly insulting Islam and the Qur'an. The case originated in a September 2016 speech in which Ahok encouraged voters not to be dissuaded from voting for him in the February 2017 gubernatorial election because the Qur'an tells Muslims not to align with Christians or Jews. Ahok, who is a Christian of Chinese descent, later apologized for his remarks. Muslim hardliners, such as the MUI and FPI, called on authorities to arrest or imprison Ahok, or even sentence him to death. Many upset by the speech viewed a video recording online that had edited Ahok's remarks to suggest he insulted the Qur'an and Islam rather than his political opponents. At the end of the reporting period, Ahok's trial was ongoing, and he advanced to the second-round election in his bid to remain Jakarta's governor.

There is strong evidence to suggest the attacks on Ahok are politically motivated. Muslim hardliners who believe it is not appropriate for a Christian to lead a Muslim city protested his ascension to the governorship after his predecessor, Jokowi, was elected president in 2014. Some oppose Ahok because he is Chinese,

Muslim hardliners who believe it is not appropriate for a Christian to lead a Muslim city protested [Ahok's] ascension to the governorship. . . . harkening back to the widespread discrimination ethnic Chinese experienced under the dictatorial rule of former President Suharto. Also, one of Ahok's first-round election opponents, Agus Harimurti Yudhoyono, is

the son of former President Susilo Bambang Yudhoyono, who openly supported the MUI and its *fatwas*, as well as hardline groups like FPI.

During the high-profile investigation and trial, many officials—including President Jokowi, members of the military, political party leaders, and representatives from the two largest Muslim organizations, NU and Muhammadiyah—spoke publicly about Indonesia's tradition of pluralism and urged calm. Ahok's critics and supporters held several protests and rallies, drawing crowds of tens of thousands in largely peaceful demonstrations. However, a November 2016 protest turned violent, leaving one man dead and approximately 100 people wounded.

Another blasphemy case developed late in the reporting period after police announced they would investigate FPI leader Rizieq Shihab for alleged blasphemy. Shihab had a prominent role organizing the protests against Ahok. In January 2017, police formally named Shihab a suspect for 2014 comments in which he allegedly insulted the state ideology, known as Pancasila, as well as Sukarno, one of the country's founding fathers. Police were reportedly investigating Shihab for other possibly blasphemous comments, including allegedly insulting Christianity.

#### **U.S. POLICY**

The United States and Indonesia have strong bilateral relations that extend to other areas of shared regional and global concern. The two countries cooperate on a number of sectors, including education; maritime issues; trade and investment; energy, climate, and the environment; science and technology; and regional security.

In August 2016, the two countries launched the Indonesia-U.S. Council on Religion and Pluralism, a venture endorsed by President Jokowi and then President Barack Obama in October 2015 when the countries elevated their relationship from a Comprehensive Partnership to a Strategic Partnership. The independent, binational, nongovernmental body identified three priorities at its initial meeting in Yogyakarta, Indonesia: (1) "increase religious understanding, mutual respect, and collaboration;" (2) "identify and foster positive civic and religious education models that promote analytical thinking and respect;" and (3) "empower civil society to deter violent extremism." The council's final report from the August launch outlined several activities for the 2017 calendar year, including proposed plans to collaborate with Indonesia's Ministry of Religious Affairs.

During the reporting period, the United States addressed growing concerns of radicalism among Indonesia's homegrown terrorists by designating several Indonesian individuals and groups as "Specially Designated Global Terrorists" (SDGTs). On March 22, 2016, the State Department designated a man named Santoso-also known as Abu Wardah and described as Indonesia's most wanted terrorist-as an SDGT. Before Indonesian security forces killed him in July 2016, Santoso led the Mujahidin Indonesia Timur (an entity on the SDGT list) and, according to the State Department's announcement, "pledged his allegiance to ISIL/Daesh." On January 10, 2017, the State Department designated the group Jammaah Anshorut Daulah (JAD), believed to be ISIS-affiliated, as an SDGT. Authorities believe JAD members were responsible for the January 2016 attack in Jakarta, in which eight people were killed.

In October 2016, then Ambassador-at-Large for International Religious Freedom David Saperstein traveled to Indonesia, visiting Jakarta, Banda Aceh, Bali, and Surabaya. Case 1:17-cv-11842-PBS Document 4-1 Filed 09/25/17 Page 31 of 105

# **EXHIBIT F**

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APRIL 11, 2017

# Global Restrictions on Religion Rise Modestly in 2015, Reversing Downward Trend

Government harassment and use of force against religious groups surge as record number of refugees enter Europe

(http://www.pewforum.org/2017/04/11/global-restrictions-on-religion-rise-modestly-in-2015-reversing-downward-trend/pf-04-11-2017\_-restrictions-00-06/) Government restrictions on religion and social hostilities involving religion increased in 2015 for the first time in three years, according to Pew Research Center's latest annual study on global restrictions on religion.

The share of countries with "high" or "very high" levels of government restrictions – i.e., laws, policies and actions that restrict religious beliefs and practices – ticked up from 24% in 2014 to 25% in 2015. Meanwhile, the percentage of countries with high or very high levels of social hostilities – i.e., acts of religious hostility by private individuals, organizations or groups in society – increased in 2015, from 23% to 27%. Both of these increases follow two years of declines in the percentage of countries with high levels of restrictions on religion by these measures.

When looking at overall levels of restrictions in 2015 – whether resulting from government policies and actions or from hostile acts by private individuals, organizations or social groups – the new study finds that 40% of countries had high or very high levels of restrictions, up from 34% in 2014.

(http://www.pewforum.org/2017/04/11/global-restrictions-on-religion-rise-modestly-in-2015-reversing-downwardtrend/pf-04-11-2017\_-restrictions-00-05/) In addition to a rise in the percentage of countries with high or very high levels of government restrictions and social hostilities involving religion, religious restrictions also rose in 2015 by other measures. For example, more countries saw their scores on the Government Restrictions Index (based on 20 indicators of government restrictions on religion) increase rather than decrease (see Chapter 1 (http://www.pewforum.org/2017/04/11/rise-in-countries-with-very-high-governmentrestrictions-on-religion-in-2015) ). And the global median score on the Social Hostilities Index, based on 13 measures of social hostilities involving religion, ticked up in 2015 (see Chapter 3

(http://www.pewforum.org/2017/04/11/government-restrictions-rise-in-nearly-all-regions-in-2015)).

The global rise in social hostilities reflected a number of factors, including increases in mob violence related to religion, individuals being assaulted or displaced due to their faith, and incidents where violence was used to enforce religious norms. In Europe, for instance, there were 17 countries where incidents of religionrelated mob violence were reported in 2015, up from nine the previous year. And sub-Saharan Africa saw a spread in violence used to enforce religious norms, such as the targeting of people with albinism for rituals by witch doctors. This type of hostility was reported in 25 countries in sub-Saharan Africa in 2015, up from nine countries in 2014. (For more on rising religious restrictions in sub-Saharan Africa, see sidebar in Chapter 3

(http://www.pewforum.org/2017/04/11/governmentrestrictions-rise-in-nearly-all-regions-in-2015#sidebar).)

The increase in government restrictions was linked to a surge in government harassment and use of force against religious groups, two of the specific indicators used to measure government restrictions on religion in the analysis.<sup>1</sup> Four of the five geographic regions analyzed in this report - the Middle East and North Africa, Asia and the Pacific, sub-Saharan Africa and Europe - saw increases in these two areas.

Of the 198 countries in the study, 105 (53%) experienced widespread government harassment of religious groups, up from 85 (43%) in 2014 and 96 (48%) in 2013. Limited harassment – cases that were isolated or affected a small number of groups – also rose, taking place in 52 countries (26%) in 2015 (up from 44, or 22% of countries, in 2014).

Government use of force against religious groups increased as well, with 23 countries (12%) experiencing more than 200 cases of government force in 2015, up from 21 (11%) in 2014. There was an even bigger increase in the number of countries with at least one, but no more than 200 incidents of government use of force against religious groups: 83 nations (42%) fell into this category in 2015, an increase from 60 countries (30%) in 2014.

# Number of countries with high or very high restrictions, hostilities rises in 2015

% of 198 countries with high or very high levels of ...

#### ... government restrictions on religion



#### ... social hostilities involving religion

2015	27%	(53 countries)
2014	23	(45)
2013	27	(53)
2012		33 (65)
2011	29	(57)
2010	24	(47)
2009	18	(35)
2008	18	(36)
2007	20	(39)

Source: Pew Research Center analysis of external data. See Methodology for details. "Global Restrictions on Religion Rise Modestly in 2015,

Reversing Downward Trend"

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# Government harassment of religious groups increases in 2015

Number of governments that engaged in of religious groups in 2015



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# Government harassment and use of force rising in Europe, along with social hostilities against Muslims

(http://www.pewforum.org/2017/04/11/global-restrictions-on-religionrise-modestly-in-2015-reversing-downward-trend/pf-04-11-2017\_-restrictions-00-04/) While the Middle East-North Africa region continued to have the largest proportion of governments that engaged in harassment and use of force against religious groups (95%), Europe had the largest *increase* in these measures in 2015. More than half of the 45 countries in the region (53%) experienced an increase in government harassment or use of force from 2014 to 2015. Twenty-seven European countries (60%) saw widespread government harassment or intimidation of religious groups in 2015, up from 17 countries in 2014. And the governments of 24 countries in Europe (53%) used some type of force against religious groups, an increase from 15 (33%) in 2014.

Two countries in Europe, France and Russia, each had more than 200 cases of government force against religious groups – mostly cases of individuals being punished for violating the ban on face coverings in public spaces and government buildings in France, and



Note: "Limited" and "widespread" harassment refer to the scale and/or frequency of incidents. See Methodology for details. Source: Pew Research Center analysis of external data. See Methodology for details. "Global Restrictions on Religion Rise Modestly in 2015, Reversing Downward Trend"

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groups being prosecuted in Russia for publicly exercising their religion.<sup>2</sup> France and Russia also were the only two European countries with more than 200 cases of government force against religious groups in 2014, but there was a significant rise in 2015 in the number of countries in Europe where lower numbers of incidents – between one and nine – occurred (eight in 2014 vs. 17 in 2015).

Some incidents of government harassment measured by this study – which are not always physical, but may include derogatory statements by public officials or discrimination against certain religious groups – were related to Europe's incoming refugee population. In 2015, 1.3 million migrants applied for asylum in Europe (http://www.pewglobal.org/2016/08/02/number-of-refugees-to-europe-surges-to-record-1-3-million-in-2015/), nearly doubling the previous annual high of about 700,000 in 1992, following the collapse of the Soviet Union. More than half (54%) came from three Muslim-majority countries – Syria, Afghanistan and Iraq.

One such example involved Hungary's prime minister, Viktor Orban, who complained about the religious makeup of refugees coming into the country. In September 2015, he wrote in a German newspaper, "Those arriving have been raised in another religion, and represent a radically different culture. Most of them are not Christians, but Muslims." He later told journalists, "I think we have a right to decide that we do not want a large number of Muslim people in our country," and in another interview said "the Islamic religion and culture do not blend with Christian religion and culture; it is a different way of life."<sup>3</sup>

Similarly, neighboring Slovakia rejected European Union mandatory refugee quotas, but said it would accept 200 Christian refugees from Syria. In August 2015, the Ministry of Interior explained the decision, saying Christian refugees would be better able to assimilate into Slovakian society than Muslim refugees

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given the lack of officially recognized mosques in the country. Earlier in the year, the leader of the Slovak National Party, Andrej Danko, had proposed a new law that would make it impossible to build Islamic religious buildings in the country.<sup>4</sup>

In addition to harassment by government officials, many European governments employed force against religious groups. For example, in February of 2015, German police raided the mosque of the Islamic Cultural Center in Bremen; the police said they suspected that the mosque supported Salafist groups and that a person associated with the mosque was distributing automatic weapons for a terror attack. Police broke down the front door of the mosque, handcuffed worshippers and forced some to lie on the floor for hours. No weapons were found in the mosque. In July, a Bremen regional court ruled that the search was unlawful.<sup>5</sup>

These incidents took place in a climate influenced by threats and attacks from religiously inspired terrorist groups. France experienced several religion-related terror attacks in 2015, including the Jan. 7 shooting at the offices of the satirical magazine Charlie Hebdo and the Nov. 13 attacks claimed by the Islamic State in Iraq and Syria (ISIS) at the Bataclan concert hall and various other locations throughout Paris.<sup>6</sup> In the days following the Paris attacks, Germany cancelled an international soccer match because of security threats, and Belgian authorities arrested 16 people suspected of planning similar acts.<sup>7</sup>

# Europe sees largest increase in government harassment and use of force against religious groups

% of countries in each region with **increases** in government harassment or use of force against religious groups between 2014 and 2015



% of countries in each region that experienced government harassment or use of force against religious groups in 2015

Middle East- North Africa	95%
Europe	89
Sub-Saharan Africa	83
Americas	80
Asia-Pacific	72

Source: Pew Research Center analysis of external data. See Methodology for details. "Global Restrictions on Religion Rise Modestly in 2015,

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Altogether, European law enforcement officials reported record numbers of terrorist attacks either carried out or prevented by authorities in 2015, although not all of these events were directly related to religion.<sup>8</sup>

(http://www.pewforum.org/2017/04/11/global-restrictions-on-religion-rise-modestly-in-2015-reversing-downwardtrend/pf-04-11-2017\_-restrictions-00-03/) Attacks that *were* influenced by religion, such as those in Paris, are counted in the study as social hostilities involving religion – i.e., hostile actions motivated by religion and carried out by individuals or social groups, separate from government actions. In Europe, hostilities toward Muslims in particular increased considerably. In 2015, 32 countries in Europe (71%) experienced social hostilities toward Muslims, up from 26 countries (58%) in 2014. By comparison, social hostilities toward Christians spread from 17 (38%) countries in 2014 to 21 (47%) in 2015. Hostilities against Jews in Europe remained common and increased slightly, from 32 (71%) countries in 2014 to 33 (73%) countries in 2015. Many of the incidents targeting these religious groups occurred in the form of mob violence.

# Jews and Muslims remain victims of social hostilities in most European countries



Of the 45 countries in Europe, the number with social hostilities against \_\_\_\_\_ between 2007 and 2015

Source: Pew Research Center analysis of external data. See Methodology for details.

"Global Restrictions on Religion Rise Modestly in 2015, Reversing Downward Trend"

(http://www.pewforum.org/2017/04/11/global-restrictions-on-religion-rise-modestly-in-2015-reversing-downwardtrend/pf-04-11-2017\_-restrictions-00-02/) In the wake of the Charlie Hebdo and Bataclan concert hall shootings, some Muslims in France faced violent attacks by social groups or individuals. For example, two Muslim places of worship in the cities of Le Mans and Narbonne were attacked by grenades and gunshots the day after the Charlie Hebdo shooting. France's Interior Ministry reported that anti-Muslim incidents more than tripled in 2015, including cases of hate speech, vandalism and violence against individuals.<sup>9</sup>

Vandals in Spain also targeted mosques after the Charlie Hebdo shooting in January of 2015.<sup>10</sup> Perpetrators drew swastikas and threats on Spanish mosques and Islamic centers on four separate occasions that month.

In Slovakia, far-right political groups organized protests against the "Islamization of Europe and Slovakia," drawing an estimated 3,000-5,000 people in Bratislava in June. The protest was called "STOP to the Islamization of Europe! Together against the Brussels dictate, for a Europe for Europeans." Groups held two more protests in September and October along a similar theme.<sup>11</sup>

# About this report

This is the eighth in a series of reports by Pew Research Center analyzing the extent to which governments and societies around the world impinge on religious beliefs and practices. The studies are part of the Pew-Templeton Global Religious Futures project, which analyzes religious change and its impact on societies around the world. The project is jointly funded by The Pew Charitable Trusts and the John Templeton Foundation.

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To measure global restrictions on religion in 2015 – the most recent year for which data are available – the study ranks 198 countries and territories by their levels of government restrictions on religion and social hostilities involving religion. The new study is based on the same 10-point indexes used in the previous studies.

- The Government Restrictions Index measures government laws, policies and actions that restrict religious beliefs and practices. The GRI is comprised of 20 measures of restrictions, including efforts by government to ban particular faiths, prohibit conversion, limit preaching or give preferential treatment to one or more religious groups.
- The Social Hostilities Index measures acts of religious hostility by private individuals, organizations or groups in society. This includes religion-related armed conflict or terrorism, mob or sectarian violence, harassment over attire for religious reasons or other religion-related intimidation or abuse. The SHI includes 13 measures of social hostilities.

To track these indicators of government restrictions and social hostilities, researchers combed through more than a dozen publicly available, widely cited sources of information,

# Social hostilities toward Muslims increased most in Europe and sub-Saharan Africa

% of countries in each region with social harassment of Muslims



Source: Pew Research Center analysis of external data. See Methodology for details. "Global Restrictions on Religion Rise Modestly in 2015, Reversing Downward Trend"

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including the U.S. State Department's annual reports on international religious freedom and annual reports from the U.S. Commission on International Religious Freedom, as well as reports from a variety of European and U.N. bodies and several independent, nongovernmental organizations. (See Methodology (http://www.pewforum.org/2017/04/11/methodology-13) for more details on sources used in the study.)

(http://www.pewforum.org/2017/04/11/global-restrictions-on-religion-rise-modestly-in-2015-reversing-downwardtrend/pf-04-11-2017\_-restrictions-00-01/) The new study also examines religious restrictions by region. The sharpest increase in median Government Restrictions Index score in 2015 occurred in sub-Saharan Africa, rising to 2.2 from 1.5 in 2014 (see sidebar in Chapter 3 (http://www.pewforum.org/2017/04/11/governmentrestrictions-rise-in-nearly-all-regions-in-2015#sidebar) for more information on changes in sub-Saharan Africa).<sup>12</sup> But when looking at long-term trends, it is clear that a few other regions, including the Asia-Pacific region and Europe, have seen greater increases in median levels of government restrictions on religion since 2007. Indeed, the Middle East-North Africa region has seen the largest *increase* in government restrictions since 2007 and continued to have the highest *level* of these restrictions in 2015, with the region's median score increasing to 5.9 from 5.4 in 2014.

(http://www.pewforum.org/2017/04/11/globalrestrictions-on-religion-rise-modestly-in-2015reversing-downward-trend/pf-04-11-2017\_-restrictions-00-00/) Europe was one of the two regions where social hostilities toward religion rose in 2015, but sub-Saharan Africa experienced the largest increase in its median score during the year. The Middle East-North Africa region continued to have the highest levels of hostilities, despite a decline in 2015.

Combining government restrictions and social hostilities, four-in-ten of the countries included in the study are in the most restrictive categories (high or very high). But some of these countries are among the world's most populous (such as Indonesia and Pakistan). As a result, 79% of the world's population lived in countries with high or very high levels of restrictions and/or hostilities in 2015 (up from 74% in 2014). It is important to note, however, that these restrictions and hostilities do not necessarily affect the religious

# Middle East-North Africa continues to have highest government restrictions on religion

Median scores on the Government Restrictions Index, by region



### 2007 2008 2009 2010 2011 2012 2013 2014 2015

Source: Pew Research Center analysis of external data. See Methodology for details. "Global Restrictions on Religion Rise Modestly in 2015, Reversing Downward Trend"

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groups and citizens of these countries equally, as certain groups or individuals may be targeted more frequently by these policies and actions than others.

Among the world's 25 most populous countries, Russia, Egypt, India, Pakistan and Nigeria had the highest overall levels of government restrictions and social hostilities involving religion. Egypt had the highest levels of government restrictions in 2015, while Nigeria had the highest levels of social hostilities.

Muslims and Christians – who together make up more than half of the global population (http://www.pewforum.org/2015/04/02/religious-projections-2010-2050/) – continued to be harassed in the highest number of countries. The study also finds that the number of countries where Jews were harassed fell slightly in 2015, after years of steady increases.

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- 1. For the purposes of this study, government harassment includes a government offense against a religious group or person due to their religious identity, including physical coercion or being singled out with the intent of making life or religious practice more difficult. Policies that specifically have an adverse effect on particular religious groups, or negative public comments or characterizations about religious groups by the government or government officials, also constitute harassment. Harassment is categorized as "limited" or "widespread" depending on the number of groups affected, the frequency of the harassment, the potential for the harassment to spread to multiple regions, or whether the harassment indicates a possible campaign against a certain religion or practice. For example, a country in which more than three religious groups were harassed, or where the harassment occurred in more than one region, would be classified as having widespread harassment of religious groups. A country in which one group was harassed, or where the harassment occurred in an isolated region, would be classified as having limited harassment of religious groups. Government use of force against religious groups can include government actions or policies that result in damage to personal or religious property, arrest and detentions, displacement, assault, or death. Cases are aggregated into five categories, ranging from at least one but fewer than 10 cases to over 10,000 cases in a year. This measure does not include government use of force against those explicitly intending malicious harm. For more details on how the analysis in this report is conducted, see Methodology. ←
- U.S. Department of State. Aug. 10, 2016. "France." PE International Religious Freedom Report for 2015. Also see the European Parliament Intergroup on Freedom of Religion or Belief and Religious Tolerance. June 30, 2016. "Annual Report on the State of Freedom of Religion or Belief in the World." ↔

# Sub-Saharan Africa sees biggest increase in social hostilities involving religion in 2015



Source: Pew Research Center analysis of external data. See Methodology for details. "Global Restrictions on Religion Rise Modestly in 2015, Reversing Downward Trend"

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Global Restrictions on Religion Rise Modestly in 2015, Reversing Downward Trend | Pe... Page 9 of 9 Case 1:17-cv-11842-PBS Document 4-1 Filed 09/25/17 Page 40 of 105 Case 1:17-cv-11842-PBS Document 4-1 Filed 09/25/17 Page 41 of 105

# **EXHIBIT G**



The Islamic Defenders Front holds a rally to support the closure of Southeast Asia's largest red-light area, Dolly, in the Indonesian city of Surabaya on June 18, 2014 Anadolu Agency–Getty Images

#### **INDONESIA**

# Islamist Intolerance Poses a Growing Threat to Indonesia's Minorities

Jonathan Emont / Yogyakarta Apr 20, 2016

Late in the evening on April 2, a group of around 15 men from the Islamic Jihad Front, a local hard-line group, stormed into Lady Fast, a music event focused on female empowerment in the city of Yogyakarta, Indonesia. The hard-liners called the women "communists" and "trash," and demanded that the show be immediately shut down. A.Y., one of the event's organizers who asked to be only identified by her initials, says in an e-mail to TIME that when she tried to reason with the hard-liners, who were busy tearing down posters from the walls, one said to her, "Do you want an argument or a debate? What do you want? You're a woman, easy enough to punch you!"

The police had already arrived by then, shooting into the air to establish their presence. They did not arrest any of the hard-liners but instead they detained four Lady Fast organizers and participants, questioning them about the nature of their event and about a book on LGBT rights the police discovered at the venue. A.Y. grew frustrated. "It shouldn't have been me that was brought to the police station, but the man who almost punched me," she says. She told the police that the book on LGBT rights had been at the venue before Lady Fast began; she was released with no charges a few hours later.

Yogyakarta is vaunted as Indonesia's bohemian university town, where students from all over a huge and diverse nation gather to study. It is a place of the arts, especially of Javanese culture, and has become a centerpiece of the national government's new campaign to promote tourism.

But recently, it has also become a centerpiece of a hard-line Islamist campaign to subdue Indonesia's minority groups — a category that includes Christians, minority Muslim sects, progressive student groups, and the LGBT community. According to the Wahid Institute and the Legal Aid Institute, two organizations that monitor rights abuses in Indonesia, over the past two years more abuses of minority rights have been recorded in Yogyakarta than any region other than deeply conservative West Java province. Examples of recent abuses in Yogyakarta include the burning of a Baptist church, an assault on Afghan Shi'ite Muslim refugees, the refusal by local government leaders to allow ethnic Dayak students from rural Borneo to hold a traditional ceremony, and the forcible suspension of Pondok Pesantren al-Fatah, which had been the world's only transgender Islamic boarding school. "This is quite a significant development in Yogyakarta, actually, in terms of growing intolerance," says M. Najib Azka, a professor of sociology at Gadjah Mada University in Yogyakarta, the nation's oldest university, who blamed the city's government and police force for its refusal to confront hard-line groups.

Municipal authorities have long promoted the city with the slogan "City of Tolerance," which features on several murals around Yogyakarta. After the attack on Lady Fast, a newly formed progressive group, Solidarity for a Peaceful Yogyakarta, painted a big question mark on each of the murals.

The same question mark could be said to hang over the rest of Indonesia. In 2014, Joko "Jokowi" Widodo, a committed pluralist, won the presidency over Prabowo Subianto, a former special-forces officer who had the backing of Indonesia's conservative and hardline Muslim organizations. Jokowi's victory, and his urging of the police to take action against hard-line groups encouraged progressive hopes that Indonesia finally had a President determined to rein in the ultra-conservatives.

Instead, incidents of intolerance have spiked during Jokowi's presidency, with the President appearing to focus his attention on reviving Indonesia's economy in his first 18 months in office. The Setara Institute, an organization that tracks religious violence in Indonesia, recorded 236 cases of religious violence in Indonesia in 2015, the first full year of Jokowi's presidency, compared with 177 in 2014. Bonar Tigor Naipospos, the institute's executive director, says, "[Jokowi] thinks improving the economy can solve all problems. He doesn't have a sufficient understanding of human rights and how to protect minority groups. There are too many cases where the police are simply silent."

The President's Office declined to comment for this article. Boy Rafli Amar, chief spokesperson for the National Police, responds to TIME's questions about the police's apparent tolerance of hard-line groups via a WhatsApp message. "Intolerant groups that take violent action must be met with a strong response in accordance with the law," he writes. "We are already undertaking this effort."

Participants of Lady Fast remain skeptical. "When hard-line groups repressed and intimidated us, why was it the event organizers, as well as participants, who were detained? Why didn't the police tell the hard-line group to get lost?" asks Pamillia, who participated in the event.

That remains a giant question mark.

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# **EXHIBIT H**

# Indonesia's Moderate Islam is Slowly Crumbling

Liberal Muslims are fretting as fundamentalists seize the popular moment.

### BY KRITHIKA VARAGUR FEBRUARY 14, 2017

JAKARTA, Indonesia — In the struggle against Islamic extremism, few groups have been fighting for longer than Nahdlatul Ulama (NU), the Sunni organization that has become the global face of Indonesia's pluralistic Islam. Founded in 1926 to prevent Saudi Arabia's bitterly intolerant Wahhabism from taking root in Indonesia, it's a cultural touchstone for Indonesians proud of their heritage of religious tolerance — and a symbol of moderate Islam worldwide.

But NU's work seems to be collapsing at home. The national conversation of the last five months has been monopolized by a far-right Islamist group called the Islamic Defenders Front (FPI). FPI has around 200,000 members; NU — somewhat dubiously — claims 50 million worldwide. But it's the extremists who are setting the pace in Indonesia and threatening to transform NU in the process.

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FPI has organized huge, racially charged rallies in Jakarta to protest the city's Chinese Christian governor, Basuki "Ahok" Tjahaja Purnama, whom it accused of blasphemy for quoting a Quran verse about electing non-Muslim leaders. NU discouraged, but didn't prohibit, its members from attending them. Some NU members, wearing the group's scarves and holding its flags, even attended FPI's rallies. FPI's hyperbolic allegation went all the way to court, where the governor is now sitting trial as he runs for re-election. In charging Ahok, the police sided with FPI rather than NU, which publicly disputed the blasphemy charge. It was a stunning accomplishment for a fringe group — and one that has left the Indonesian center shaken and frightened.

NU is reliably quick to defuse anxiety about radicalism with the refrain that the "real" Islam is tolerant, peaceful, and inhospitable to jihad — especially in Indonesia. And it's true that Indonesia has remarkably few terrorists given its population size. NU also has a prominent global profile due to its fondness for interfaith conferences, summits for Muslim leaders, and ambitious campaigns against extremism.

But there is a growing chasm between Indonesia's national refrain about its tolerant, pluralistic tradition and the conservative populism that has breached public life. People on both sides are now waiting to see if the governor's trial will help revive Indonesia's moderate Muslim establishment or mark the beginning of its end.

"The Ahok affair has been a huge wake-up call," said Alissa Wahid, a social activist, NU official, and daughter of late Indonesian President Abdurrahman Wahid. "We have been suffering for 10 years, letting hard-liners take center stage on social issues and even commit violence," she said. "The challenges for NU going forward are not small."

NU was a political party until 1984 but now concentrates on social welfare and religious education, often in tandem with other faith groups, encapsulating Indonesia's syncretic mix of animistic, Hindu, Christian, and Buddhist traditions alongside Islam. The archetypal NU public figure was Abdurrahman Wahid, who was chairman of the group for 15 years before he was elected president in 1999. Yet under Wahid, far more strident groups started to elbow NU offstage.

#### Indonesia's Moderate Islam is Slowly Crumbling | Foreign Policy Page 3 of 6 Case 1:17-cv-11842-PBS Document 4-1 Filed 09/25/17 Page 49 of 105

"The prominence of liberal Muslim intellectuals like Wahid made moderate Islam seem like a stable and dominant ideology," said Luthfi Assyaukanie, a researcher and co-founder of the Liberal Islam Network. "But before 1998, when [the dictator] Suharto fell, the media was tightly controlled and privileged the discourse of liberal, tolerant groups like NU."

In retrospect, Assyaukanie said, the center could not hold. Suharto's authoritarianism prioritized religious tolerance — for the sake of stability, if nothing else. But when the democratic floodgates opened in 1998, conservatives could finally organize and evangelize. FPI was founded in late 1998, the sharia-promoting hard-line Indonesian Mujahideen Council in 2000, and the reactionary Prosperous Justice Party (PKS) in 2002.

"I don't think NU adapted fast enough to the new media environment," said Savic Ali, a young NU member who runs its website and Nutizen, a new streaming video platform. "The people who really took advantage of it were the hard right — conservative voices like that of [the celebrity TV preacher] Abdullah Gymnastiar who amass huge followings on TV and social media." Ali is spearheading an effort to raise the digital profile of NU preachers but admits they're playing catch-up.

Indonesian Muslims, including NU's member base, are becoming more intensely and visibly conservative. A recent survey found that four in five public school religion teachers support imposing sharia, or Islamic law. And "more women wear hijab, more families go to Mecca, more people pray in public spaces after 1998," Assyaukanie said.

The conservative elements within NU itself make it difficult to robustly counter these trends. Many NU ulema (religious scholars) have always been conservative, said political scientist William Liddle, at Ohio State University. "During and since President Wahid, the impression that moderates dominate NU has never been accurate."

Alissa Wahid said growing conservatism within NU has been accompanied by intolerance. "In the last 15 years, NU members have become not just conservative in ritual but also rude, enforcing a 'majoritarian perspective' that dismisses all other kinds of Islam, leave alone other religions," she said. The decentralized nature of NU is another roadblock to reform: It has always been a loose alliance of religious leaders and lay members, so there is, Wahid said, a "constant discussion" within NU leadership about how, if at all, to enforce NU directives.

Beyond these internal issues, Saudi Arabia has also invested billions of dollars since 1980 to spread puritanical Salafi Islam in Indonesia. Despite its explicitly anti-Wahhabi origins, NU has largely neglected to address the effects of this program, Assyaunakie said. "Plus, Salafi ideas are entering the organization itself, which has become steadily more conservative since the day Wahid left."

"NU is not a good soldier for this battle vis-à-vis Salafism," said Ulil Abshar-Abdalla, the other co-founder of the Liberal Islam Network. "It still has conservative instincts. Many members share, for instance, the fundamentalist viewpoint that Shiites and Ahmadiyya are not real Muslims; the only difference is that they don't condone violence."

And NU's own efforts in the international battle against extremism may also be hampering it at home. NU's biggest overture against Salafi encroachment was its annual congress in 2015, in which, as Margaret Scott wrote, NU leaders affirmed that "Indonesian Islam is nationalist, pluralist, moderate, and democratic ... as a way to fight Salafis and Saudi influence." The congress is part of a packed calendar of outward-facing NU meetings and conferences, which, according to French political scientist Delphine Alles, springs from NU's unofficial role as an international ambassador for Indonesia's moderate image.

Alles recounts how Indonesia's Ministry of Foreign Affairs has promoted staging "international forums of inter-religious dialogue, a popular theme since the middle of the 2000s." Indonesia's director for information and public diplomacy has been "financially and logistically supporting" NU's International Conference of Islamic Scholars since 2006. But it is a "notorious fact," writes Alles, that "the declarations of intentions that these forums pronounce often leave their observers with a sense of frustration" because they fail to address any real points of contention.

Observers argue that the bandwidth NU devotes to targeting foreigners could be better used on promoting progressive values in terms of issues that affect its base directly. "The emphasis placed by NU elites on pluralism and tolerance has, at times, translated into support for socioeconomic policies, like forced evictions, that have had devastating impacts on the poor," said Ian Wilson, a researcher at Murdoch University in Australia. "This seeming disjuncture between progressive social values and acquiescence to economic policies hostile to the poor may have provided openings for neoconservatives and hard-liners to capture resentment."

In this vacuum, FPI has become an invaluable resource to embattled Jakarta slums that are targeted by Ahok's eviction program. In April 2016, for instance, when the government threatened to evict about 1,000 residents of the Luar Batang neighborhood, FPI set up a lean charity operation that provided food, clothing, and volunteers to the poor community.

Despite these hiccups, liberal Islam remains the rule, not the exception, among Indonesia's political parties. The catch is that politicians tend to manifest this obliquely, Assyaukanie said.

"Secular parties don't talk about Islam in straightforward terms; they couch it in issues like 'religious tolerance' and 'increasing women's rights,'" he said. "It could help if they talked about Islam more forwardly." Their failure to do so, he added, creates a vacuum for right-wing Islamist parties like PKS to set the agenda for political Islam in the country.

Still, Liddle thinks liberal political Islam fares far better in Indonesia than in other Muslim countries. "[Rightwing parties like] PKS, though close to being sharia parties, are small and tarnished. Compare that with most of the Arab Middle East, like Egypt, where an Islamist party, the Muslim Brotherhood, ... got 40 percent of the parliamentary vote and elected a president," he said.

Indonesia is not alone in its ideological tumult. Malaysia, a nearby moderate Muslim country, has been edging toward Islamic law in recent years. The formally secular nation of Bangladesh is seeing many of the same cultural shifts — more women wearing hijabs, higher madrasa attendance — as Indonesia has and with apparent government support. None of the progressive parties of the Arab Spring are thriving six years later, save for Tunisia's Ennahdha Movement.

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But, according to Rice University political scientist A. Kadir Yildirim, Indonesia has an "important advantage" within the Muslim world because, "compared to most Arab countries, Indonesia has an established and vibrant electoral democracy, which provides an opportunity for many important discussions regarding modernization, religion-state, and democratization to take place in public view."

The obvious comparison to Indonesia's experiment in Muslim democracy is Turkey, which has been similarly blindsided by its population's growing conservatism. Turkey, too, had a generation of Westernized liberalism under a strongman leader — Ataturk there, Suharto in Indonesia. But their ideological legacy was revealed to be less stable when democratic floodgates opened. In the wake of furious culture wars between "Black" (traditional) and "White" (urban progressive) Turks, its citizens have voted the conservative strongman Recep Tayyip Erdogan into the offices of prime minister and then president for more than 13 years. Indonesia's next presidential election, in 2019, could be a weather vane for the country's future course following its currently moderate, globally minded president, Joko Widodo.

Maybe it's hard for moderate Muslims to create viable political platforms because moderation, as a concept, is just difficult. It is a ceaseless balancing act, especially when simplistic right-wing parties like FPI constantly extend the range of acceptable discourse.

For Indonesian moderates, the collapse of the center elsewhere — like in the United States — is a chilling warning. "The essential problem of blasphemy with Ahok's case is not for us to decide, but it highlights how fear and hatred of the 'other' have been politically exploited," Wahid said. If the Ahok case hadn't happened, she added, something else would have shaken the liberal establishment out of complacency.

"The protests were fine, they were manageable, and dealing with them is preferable to something like the shocking American election." She sighed. "Hopefully it won't come to that here."

Credit: ADEK BERRY/ Staff

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# **EXHIBIT I**



## Submission by the United Nations High Commissioner for Refugees

## For the Office of the High Commissioner for Human Rights' Compilation Report

## Universal Periodic Review: 3rd Cycle, 27th Session

# INDONESIA

## I. BACKGROUND INFORMATION

Indonesia is not a State party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol (hereinafter jointly referred to as the 1951 Convention), nor has it signed the 1954 Convention relating to the Status of Stateless Person (the 1954 Convention) or the 1961 Convention on the Reduction of Statelessness (the 1961 Convention).

### **Refugees and asylum-seekers:**

As of July 2016, Indonesia hosts 13,474 refugees and asylum-seekers from 48 different countries, of whom 3,548 are female and 9,926 are male.1 UNHCR conducts registration and refugee status determination (RSD) and seeks durable solutions for refugees on behalf of the Government. The absence of a comprehensive national legal framework for refugee protection limits refugees' enjoyment of basic rights, such as freedom of movement (with more than 4,200 currently being arbitrarily detained), access to education and healthcare, and access to birth certificates as a measure to prevent statelessness. The Government has drafted a *Presidential Regulation on the Handling of Foreign Refugees and Asylum-Seekers* that would effectively end the detention of refugees and asylum-seekers, though this proposed law has remained pending enactment for several years.

#### Stateless persons:

As of July 2016, UNHCR had registered some 934 stateless Rohingya refugees from Myanmar, including those who had disembarked in Indonesia during the 2015 Bay of Bengal and Andaman Sea Crisis.<sup>2</sup> Currently, neither UNHCR nor the Government has reliable data on the number of statelessness persons in the country but there are indications that a potentially sizeable population exists. Identifying these persons is challenging partly because the different groups may be hidden among an estimated 24 million children whose births have not been registered.<sup>3</sup>

## II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

## Positive developments linked to 2<sup>nd</sup> cycle UPR recommendations

<sup>&</sup>lt;sup>1</sup> UNHCR Indonesia, Monthly Statistical Report May 2016.

<sup>&</sup>lt;sup>2</sup> UNHCR Indonesia, Internal Report.

<sup>&</sup>lt;sup>3</sup> Centre for Child Protection (PEKKA), *Kajian Identitas Hukum: Jutaan Orang Hidup Tanpa Akta Kelahiran*, (DFAT, PEKKA, and Puskapa UI, Jakarta: 2014), p.6.

Linked to 2<sup>nd</sup> cycle UPR recommendation no. 108.58: "Provide more resources for implementing the national policies and programmes in favour of social vulnerable groups like women, children, poor people, ethnic minorities and migrants (Viet Nam)."<sup>4</sup>

Despite Indonesia not being a State party to the *1951 Convention*, UNHCR is provided unhindered access to register those who wish to seek asylum, issue formal documentation of their status, process their claims for refugee status, and refer their cases for durable solutions, including third-country resettlement. UNHCR appreciates the commitment of the Government of Indonesia to ensure rescue at sea, safe disembarkation, and access to territory and to asylum procedures, and commends the Government for taking the lead among countries in the region to protect the safety and rights of refugees and asylum-seekers. In particular, UNHCR applauds the Government's decision to allow the disembarkation of some 1,000 Myanmar Rohingya refugees and 800 Bangladeshi migrants during the Bay of Bengal and Andaman Sea Crisis in May 2015, and to provide them with basic assistance, medical services, education, and shelter while durable solutions are being sought for them.

Linked to 2<sup>nd</sup> cycle UPR recommendation no. 108.112: "Undertake measures to protect members of religious groups, including Ahmadis, Bahais, Christians and Shias from harassment and acts of violence. This should commence with holding senior law enforcement accountable for their duties that include training for law enforcement officials at the local level to ensure an effective and adequate response to these incidents. This would also include reviewing laws and regulations which discriminate, directly or indirectly against one's religion or belief, including in particular the Blasphemy Act (Canada)."

UNHCR recognizes efforts taken by the Government of Indonesia to protect members of minority religious groups. In October 2015, in light of threats made against a group of unaccompanied refugee children residing in a shelter in Yogyakarta because of their practice of Shia religious traditions, the Government took immediate action to relocate the children to Semarang to ensure their safety. Additionally, in January 2016, following attacks against the Fajar Nusantara religious movement in West Kalimantan, the Government evacuated more than 1,000 victims and accommodated them in facilities managed by the Ministry of Social Affairs, where they received material support and psychosocial assistance until they could be returned to their home villages.

# III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

## Challenges linked to outstanding 2<sup>nd</sup> cycle UPR recommendations

## Issue 1: <u>Respect for minority rights and freedom of religion</u>

Linked to 2<sup>nd</sup> cycle UPR recommendation no. 108.68: "<u>Continue the efforts to fight against</u> all forms of discrimination and to respect the rights of religious minorities (Argentina)" and no. 108.102: "<u>Guarantee freedom of religion or belief and the full respect of the rights of persons belonging to minorities (France)</u>".

Most refugees and asylum-seekers in Indonesia belong to minority religions, particularly Shia Islam and Christianity, and discrimination against religious minorities impacts refugee

<sup>&</sup>lt;sup>4</sup> "Report of the Working Group on the Universal Periodic Review of Indonesia" (5 July 2012), A/HRC/21/7, available at: <u>http://www.ohchr.org/EN/HRBodies/UPR/Pages/IDSession13.aspx</u>.
protection. Under Indonesia's 1945 Constitution "every person shall be free to choose and to practice the religion of his/her choice,"5 and "the State guarantees all persons the freedom of worship, each according to his/her own religion or beliefs."6 However, in practice religious minorities continue to face discrimination within Indonesian society. Further to the abovementioned Sunni extremists' threat against Shia unaccompanied refugee children in Yogyakarta, none of the perpetrators were prosecuted. Other examples of growing intolerance toward the Shia among refugee hosting communities are the public address by Syariah College Hidayyatullah in Balikpapan, a city hosting refugees and asylum-seekers, against Afghan Shia refugees as a threat to the country,7 and the issuance of a circular by the Mayor of Bogor, a city where thousands of refugees and asylum-seekers reside, banning any religious activities by Shia in the city.8 Furthermore, despite policies allowing refugees to be released from immigration detention facilities and placed in designated community accommodation, the expansion of this alternative to detention in order to meet the needs of the growing number of detained refugees is hampered by communities' resistance to allow the establishment of additional facilities; the predominance of the Shia among the refugee population is cited as one of the main reasons for this resistance. UNHCR is concerned by the reluctance of authorities in localities where extremist groups are particularly active to support the rights of religious minorities.

UNHCR is also concerned with increasing intolerance toward other minority groups, particularly LGBTI individuals. While sexual activity between two consenting same-sex adults is not criminalized under the *Criminal Code* of Indonesia,9 such activity is criminalized under some local bylaws and ordinances.<sup>10</sup> Discrimination against LGBTI individuals is also supported by such laws and policies as the *2008 Pornography Law*, which defines anal sex, oral sex, lesbianism and homosexuality as "deviant sexual intercourse",<sup>11</sup> and a regulation enacted by the Ministry of Social Affairs in 2012 that categorizes transgender, gay and lesbian persons as "people with social welfare problems" that can be resolved through "rehabilitation".<sup>12</sup> Such policies have led to increasing discrimination, intolerance and assaults against LGBTI individuals, groups, and organizations that defend their rights. In particular, since January 2016 there has been a growing climate of intolerance after high-level public officials' inflammatory statements<sup>13</sup> and opposition to local LGBTI groups support programmes, which were deemed not to be in accordance with Indonesia's current culture and norms.<sup>14</sup> UNHCR is concerned about the potential impact this could have on LGBTI refugees and asylum-seekers in the country.

#### **Recommendations:**

I

UNHCR recommends that the Government of Indonesia:

<sup>&</sup>lt;sup>5</sup> The 1945 Constitution of the Republic of Indonesia, Article 28E.

<sup>&</sup>lt;sup>6</sup> The 1945 Constitution of the Republic of Indonesia, Article 29(2).

<sup>7 &</sup>quot;Redaksi STISHID: Himbauan Anti-Shiah," STIS Hidayyatullah, 8 December 2014.

<sup>8 &</sup>quot;Ajaran Syiah, Menurut MUI, Tiidak Dilarang di Indonesia," BBC Indonesia, 15 October 2015.

<sup>9</sup> Ministry of Justice, Directorate General of Law and Legislation, Penal Code of Indonesia, 1999.

<sup>&</sup>lt;sup>10</sup> In September 2014, for instance, Aceh Province passed the bylaw that criminalizes same-sexsexual activity in the province and subjects those convicted to 100 lashes with a cane or 100 months of imprisonment (Government of Aceh, *Qanun No.6 Year 2014 on Jinayat*, Articles 63 and 64). UNHCR is aware that similar bylaws have been adopted in other provinces, including South Sumatera, South Kalimantan, West Java and West Sumatera.

<sup>11</sup> Law of the Republic of Indonesia No. 44 Year 2008 on Pornography.

<sup>12</sup> Ministry of Social Affairs, Regulation No. 8 Year 2012 on People with Social Welfare Problems.

<sup>&</sup>lt;sup>13</sup> Amnesty International, *Indonesia: Stop inflammatory and discriminatory statements that put the LGBTI community at risk*, 18 March 2016, available at: <u>https://www.amnesty.org/en/documents/asa21/3648/2016/en/</u>.

<sup>14 &</sup>quot;Kalla Urged UNDP Not To Fund LGBT Groups," Jakarta Post, 15 February 2016

- a) Observe and enforce the *1945 Constitution*, in order to prevent and eradicate intolerance and all forms of discrimination against minority groups and enact legislation that protects the civil liberties of all minority groups;
- b) Prosecute those who publicly spread hate speech and sensitize government officials to refrain from inciting public hatred towards religious and other minority groups;
- c) Promote initiatives aimed at raising the hosting communities' awareness on the rights of refugees, asylum-seekers and unaccompanied and separated children belonging to religious minorities, and ensure that alternatives to detention are available in law and implemented in practice;<sup>15</sup> and
- d) Decriminalize same-sex relationships in bylaws and ordinances throughout the country and amend its 2008 Pornography Law with a view to declassifying same-sex consensual relations between adults as "deviant sexual intercourse".

## Additional Protection Challenges

# Issue 2: <u>Compliance with the principle of *non-refoulement* and access to fundamental rights</u>

While Indonesia has generally respected the principle of *non-refoulement*, three incidents of asylum-seekers being returned to countries where they could face persecution have been reported since 2013; in three other incidents UNHCR was able to negotiate with the Government to prevent *refoulement*. Incidents of *refoulement* have hardly been seen since UNHCR established its presence in Indonesia in 1979, and UNHCR is concerned by these recent alarming episodes. Despite the right to seek asylum being guaranteed in Indonesia's *1945 Constitution*<sup>16</sup> and *1999 Human Rights Law*,<sup>17</sup> the *2011 Immigration Law* does not include provisions relating to asylum and provides authority for immigration officials to refuse access to territory to anyone without valid travel documents and visas without requiring a protection assessment or providing access to UNHCR; the law also provides for deportation as a sanction for foreigners who do not possess valid passports and visas.<sup>18</sup> Furthermore, the Government has no national asylum system in place and denies refugees and asylum-seekers the right to work.

A 2010 Regulation of the Director General of Immigration<sup>19</sup> recognized the status and documentation issued by UNHCR to refugees and asylum-seekers and generally served as a protection tool against *refoulement*. In early 2016, however, the Director General of Immigration revoked the 2010 Regulation and replaced it with a new Regulation<sup>20</sup> that affords considerably less protection space. UNHCR appreciates that the new regulation requires coordination with UNHCR for those seeking asylum in Indonesia, but is concerned by the provision granting authority to initiate communication with countries of origin.<sup>21</sup> The 2016 Regulation also allows for administrative sanctions, including deportation, for refugees or asylum-seekers holding documentation issued by UNHCR in other countries.<sup>22</sup> Furthermore, the 2016 Regulation states that the status of persons holding UNHCR-issued

<sup>&</sup>lt;sup>15</sup> UNHCR, Beyond Detention: A Global Strategy to support governments to end the detention of asylum-seeker and refugees, 2014-2019, 2014, available at: <u>http://www.refworld.org/docid/536b564d4.html</u>.

<sup>16</sup> The 1945 Constitution of the Republic of Indonesia, Article 28G.

<sup>17</sup> Law of the Republic of Indonesia No. 39 Year 1999 Concerning Human Rights, Article 28.

<sup>18</sup> Law of the Republic of Indonesia No. 6 Year 2011 on Immigration, Article 13 and Article 75.

<sup>&</sup>lt;sup>19</sup> Regulation of the Director General of Immigration No. IMI-1489.UM.08.05 Year 2010.

 $<sup>{\</sup>it 20} \ Regulation \ of the \ Director \ General \ of \ Immigration \ No. \ IMI-0352. \ GR. 02.07 \ Year \ 2016.$ 

<sup>&</sup>lt;sup>21</sup> Regulation of the Director General of Immigration No. IMI-0352.GR.02.07 Year 2016, Article 2(3).

<sup>22</sup> Regulation of the Director General of Immigration No. IMI-0352.GR.02.07 Year 2016, Article 14.

refugee cards shall not be questioned as long as they do not violate domestic laws,<sup>23</sup> whereas the 2010 Regulation extended this provision to both refugees and asylum-seekers.<sup>24</sup>

## **Recommendations:**

UNHCR recommends that the Government of Indonesia:

- a) Accede to the 1951 Convention relating to the Status of Refugees and its 1967 *Protocol*;
- b) Comply with its obligation to act in accordance with the principle of *non-refoulement*, which is part of customary international law, and is recognized under Article 3 of the *Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*, which Indonesia ratified in 1998, including by putting in place procedures to assess an individual's needs for international protection prior to deportation;
- c) Enact a comprehensive legal framework for the protection of refugees and asylumseekers in line with international human rights standards, including the *Draft Presidential Regulation on the Handling of Foreign Refugees and Asylum-Seekers*, which in its current form would guarantee access to territory and end the detention of refugees and asylum-seekers;
- d) Consider undertaking registration of asylum-seekers jointly with UNHCR;
- e) Consider adopting measures to legalize the status of refugees married to Indonesians; and
- f) Ensure effective access of refugees to the labour market in joint schemes with Indonesian citizens, as a necessary component for finding comprehensive solutions and for the benefit of host communities.

## Issue 3: <u>Birth registration as a measure to prevent statelessness</u>

UNHCR appreciates the Government of Indonesia's commitment to make birth registration a national priority. Nonetheless, despite the enactment of the 2006 Citizenship Law that removed ethnic and gender discrimination related to nationality matters and introduced safeguards against statelessness for certain groups, a significant number of Indonesians continue to be at risk of statelessness due to a range of administrative barriers that prevent access to the birth registration process. According to the 2012 National Socioeconomic Survey conducted by the National Statistical Board, Indonesian children living without birth certificates reached 29 per cent of the population under 18 years of age, or over 24 million children.<sup>25</sup>

Approximately 89 stateless Rohingya children have been born in Indonesia since the 2006 *Citizenship Law* was enacted,<sup>26</sup> and although the law defines children born in Indonesia from stateless parents as Indonesian citizens,<sup>27</sup> the 2006 *Ministerial Regulation* that implements the law does not provide procedures for those children to acquire Indonesian nationality.<sup>28</sup> Furthermore, a 2007 *Governmental Regulation* imposes heavy administrative requirements to

<sup>26</sup>UNHCR Indonesia, Internal Report.

<sup>&</sup>lt;sup>23</sup> *Regulation of the Director General of Immigration No. IMI-0352.GR.02.07 Year 2016*, Article 3.

 $<sup>{\</sup>it 24} \ Regulation \ of the \ Director \ General \ of \ Immigration \ No. \ IMI-1489. UM. 08.05 \ Year 2010, \\ {\it Article 3(1)}.$ 

<sup>&</sup>lt;sup>25</sup> Centre for Child Protection (PEKKA), *Kajian Identitas Hukum: Jutaan Orang Hidup Tanpa Akta Kelahiran*, (DFAT, PEKKA, and Puskapa UI, Jakarta: 2014), p.6.

<sup>27</sup> Law of the Republic of Indonesia No. 12 Year 2006 on Citizenship, Article 4 point [k].

<sup>28</sup> Minister of Law and Human Rights, Ministerial Regulation No. M.01-HL.03.01 Year 2006, Article 2.

file an application for nationality, which are difficult for stateless or refugee parents to meet.  $^{\rm 29}$ 

The legislation and regulations in place create administrative barriers for refugees and asylum-seekers without valid documents to register marriages with Indonesian nationals. As a result, children born of such marriages face difficulties acquiring birth certificates that include the names of both parents. In addition, refugee spouses are unable to acquire permanent residence in Indonesia as the 2011 Immigration Law requires a formal marriage certificate, as well as a valid passport and visa, for foreigners married to Indonesians to apply for residency.<sup>30</sup>

#### **Recommendations:**

UNHCR recommends that the Government of Indonesia:

- g) Accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;
- h) Implement universal birth registration for all children born in the country, including refugees, asylum-seekers and migrants, as a measure to prevent statelessness;
- i) Establish safeguards to prevent statelessness at birth by removing administrative obstacles, simplifying birth registration procedures, reducing documentary requirements, de-linking birth registration with marriage registration and removing fines for late birth registration;
- j) Implement a comprehensive legal framework and procedures to prevent statelessness, particularly for children born of stateless parents and children of mixed marriages between refugees or asylum-seekers and Indonesian nationals; and
- k) Expand outreach to rural areas and lower income families to raise awareness on the importance of birth registration as a mechanism for protection of children's human rights.

Human Rights Liaison Unit Division of International Protection UNHCR September 2016

<sup>&</sup>lt;sup>29</sup> Government of Indonesia, *Governmental Regulation No. 2 Year 2007 on Procedures of Acquiring, Releasing, Revoking and Reacquiring Indonesian Citizenship*, Article 3.

<sup>&</sup>lt;sup>30</sup> Law of the Republic of Indonesia No. 6 Year 2011 on Immigration, Articles 52 and 54.

## ANNEX

#### Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

## INDONESIA

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Indonesia.

## I. <u>Universal Periodic Review (Second Cycle – 2012)</u>

Recommendation <sup>31</sup>	Recommending State/s	Position <sup>32</sup>
Sexual and gender-based violence and discrimination against women		
108.64. Continue to make efforts to promote and protect the rights of women;	Bahrain	Supported
108.65. Continue the policy to promote and protect women's rights;	Angola	Supported
108.72. Intensify its efforts in the fight against violence against women and in particular against domestic violence by concluding public awareness raising, empowerment of women and rigorous capacity development of law enforcers;	Liechtenstein	Supported
108.73. Continue to strengthen its capacity in addressing the issue of violence against women as well as children;	Singapore	Supported
109.2. Ratify the Optional Protocol to the Convention on the Elimination of Discrimination against Women;	Belgium	Supported
Trafficking in persons		
108.76. Continue its efforts with a view of preventing and eliminating of trafficking in human beings;	Azerbaijan	Supported
108.77. Step up efforts to combat trafficking in persons, including: continuing the practice of developing the national action plan and other strategies; considering the possibility of toughening criminal liability for crimes connected to human trafficking; studying the possibility of inviting the Special Rapporteur on Trafficking in Persons, especially women and children, to visit the country;	Belarus	Supported
108.78. Establish programmes and plans to combat trafficking in persons;	Qatar	Supported

<sup>&</sup>lt;sup>31</sup> All recommendations made to Indonesia during its 2nd cycle UPR can be found in: "Report of the W orking Group on the Universal Periodic Review of Indonesia" (5 July 2012), A/HRC/21/7, available at: <u>http://www.ohchr.org/EN/HRBodies/UPR/Pages/IDSession13.aspx</u>.

<sup>&</sup>lt;sup>32</sup> Indonesia's views and replies can be found in: *Addendum* (5 September 2012), A/HRC/21/7/Add.1, available at: <u>http://www.ohchr.org/EN/HRBodies/UPR/Pages/IDSession13.aspx</u>.

108.79. Continue its ongoing efforts in tackling the issue of trafficking in persons including prosecution of the perpetrators;	Brunei Darussalam	Supported
108.80. Share best practices in the wide variety of measures it has taken to combat trafficking in persons;	Greece	Supported
108.81. Increase its efforts, to fight effectively against trafficking in human beings, in particular sextourisminvolving children and to adopt the draft law on the protection of domestic workers;	Belgium	Supported
108.83. Further promote national efforts in countering human trafficking;	Sudan	Supported
Minority's rights and freedom of religion		I
108.68. Continue the efforts to fight against all forms of discrimination and to respect the rights of religious minorities;	Argentina	Supported
108.102. Guarantee freedom of religion or belief and the full respect of the rights of persons belonging to minorities;	France	Supported
108.103. Review laws and decrees currently in force restricting the freedoms of religion, opinion, and of expression, in order to prevent any risk of discrimination;	Switzerland	Supported
108.112. Undertake measures to protect members of religious groups, including Ahmadis, Bahais, Christians and Shias from harassment and acts of violence. This should commence with holding senior law enforcement accountable for their duties that include training for law enforcement officials at the local level to ensure an effective and adequate response to these incidents. This would also include reviewing laws and regulations which discriminate, directly or indirectly against one's religion or belief, including in particular the Blasphemy Act;	Canada	Supported
Migrants' rights		
108.58. Provide more resources for implementing the national policies and programmes in favour of social vulnerable groups like women, children, poor people, ethnic minorities and migrants;	Viet Nam	Supported
108.137. Take diplomatic action and provide legal assistance to protect migrant workers.	Iran (Islamic Republic of)	Supported

## II. <u>Treaty Bodies</u>

## **Committee on the Rights of the Child**

Concluding Observations, (10 July 2014), CRC/C/IDN/CO/3-4

## Birth registration, name and nationality

27. While welcoming Law No. 24 of 2014 on Civil Administration and the legal amendments entitling children of an Indonesian mother and a father who is not an Indonesian national to acquire Indonesian citizenship, the Committee is concerned about the absence of a mechanism to oversee the implementation of the legislation at all levels.

The Committee also notes with concern that a child's religion has to be indicated on his or her identity card, which may lead to discrimination. Furthermore, while welcoming free birth registration under national law, the Committee is concerned about:

- (a) The uncertainty with regard to oversight at the central level to ensure that local governments do not charge birth registration fees despite the new law;
- (b) Children risking statelessness if both parents are foreign nationals and cannot pass on their citizenship to the child owing to the law of their country.

28. The Committee recommends that the State party ensure that all children born in Indonesia are registered and issued birth certificates, regardless of their nationality, religion and status at birth, and that birth registration is facilitated and free of charge everywhere and under all circumstances. The Committee also recommends that the State party remove the indication of religious affiliation on identity cards and close the gap in the law which may leave some children stateless. It further recommends that the State party accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

#### Education, including vocational training and guidance

59. While welcoming the programme for universal education up to the age of 18, the Committee is very concerned about the large number of children of compulsory school age who are out of school, particularly in Java, and about the obstacles to access to, and quality of, education. It is particularly concerned that:

(a) Education is accessible by citizens only, which excludes children who do not have a birth certificate, refugee children and children of migrant workers. [...]

60. Building on its previous recommendation (CRC/C/15/Add.223, para. 63), the Committee urges the State party to take prompt measures to ensure that quality education is accessible by all children in the State party. It further urges the State party to:

(a) Ensure that education is available to all asylum-seeking and refugee children, children of migrant workers and children who do not have a birth certificate. [...]

## Asylum-seeking and refugee children

65. The Committee is highly concerned about the insufficient protection for asylumseeking and refugee children, in particular about unaccompanied children being left without guardianship and not given free legal representation. Furthermore, the Committee is deeply concerned about the detention of children in immigration detention facilities for months or years, under squalid and violent conditions, without judicial review. It is particularly concerned about:

- (a) Instances of severe brutality by immigration officials and guards experienced and/or witnessed by children;
- (b) The extremely poor conditions in the detention facilities, including overcrowding, inadequate sanitation facilities and insufficient and bad quality food;
- (c) Unaccompanied children frequently detained with unrelated adults and denied the possibility of contacting their families;

(d) Lack of access to education and only limited access to recreation and health care.

66. In the light of its general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, the Committee urges the State party to bring its immigration and asylum legislation into full compliance with the Convention on the Rights of the Child and other relevant international standards. It further urges the State party to take all necessary measures to adequately address the situation of asylum-seeking children, and in particular:

- (a) Ensure that the best interests of the child are always given primary consideration in all immigration and asylum processes and that unaccompanied asylum-seeking children are provided with adequate guardianship and free legal representation;
- (b) Cease the administrative practice of detaining asylum-seeking and refugee children;
- (c) Stipulate strict behavioural rules for guards and officials at detention facilities and ensure that the facilities are regularly assessed by an independent monitoring body;
- (d) Ensure that, in all circumstances, children are separated from unrelated adults, have access to sufficient food, clean drinking water and sanitation, as well as health care, education and recreation;
- (e) Accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

#### Committee on Economic, Social and Cultural Rights

Concluding Observations, (19 June 2014), E/C.12/IDN/CO/1

#### Multiple discriminations

13. The Committee is concerned at the situation of several groups who suffer multiple discriminations, including stateless persons and persons without identity documentation, religious communities and other persons displaced by conflicts and natural disasters (art. 2.2).

The Committee recommends that the State party adopt targeted policies in the 2015-2019 National Medium Term Development Plan for groups who experience multiple discriminations such as stateless persons and persons without identity documentation, religious communities and other persons displaced by conflicts and natural disasters, which include (a) the facilitation of the issuance of identity documents and birth and civil registration; (b) the provision of services and assistance to displaced persons and returnees; and (c) the provision of the necessary mental health services in post conflict areas.

#### Child marriage

22. The Committee is concerned that child marriage is still practiced in the State party. The Committee also regrets the lack of information on relevant legal control (art. 10).

The Committee urges the State party to prevent child marriages, in law and in practice, and to ensure the effectiveness of legal control of child marriage with a view to punishing individuals performing and facilitating child marriages.

## Child labour

23. The Committee is concerned about the large number of children involved in labour, including in hazardous work. The Committee is also concerned that measures taken, which in 2014 for instance seek to reach out to 15,000 children, are not commensurate with the extent of the problem which concerns millions of children (art. 10).

The Committee urges the State party to pursue its efforts aimed at combating child labour, including by (a) taking measures and investing resources commensurate with the extent of the problem; (b) ensuring effective labour inspections in the domestic work as well as in agriculture, forestry, hunting and fishery sectors, and holding employers exploiting child labour accountable; (c) providing rehabilitation to victims of child labour; and (d) undertaking awareness-raising campaigns with a view to addressing the social acceptance of the worst forms of child labour.

#### Violence against women

24. The Committee is concerned at the impunity associated with violence against women in the State party. It is also concerned that the Minimum Standards of Services (MSS) for survivors of violence are not effectively delivered in the State party (art. 10).

#### The Committee calls on the State party to:

(a) Raise awareness among law enforcement officials and relevant professionals on the criminal nature of violence against women and for the public at large, including through a campaign of zero tolerance to such violence;

(b) Strengthen the legislation on violence against women including by penalizing all forms of sexual violence;

(c) Take the necessary measures for ensuring access to remedies for victims, including in remote areas;

(d) Allocate the necessary financial resources at the provincial and district levels for the effective delivery of the Minimum Standards of Services, and expedite the establishment of shelters for victims of violence;

(e) Improve the institutional coordination and the monitoring of MSS implementation plans.

## Human Rights Committee

Concluding Observations, (21 August 2013), CCPR/C/IDN/CO/1

## Sexual and gender-based violence

13. While noting the State party's efforts to eradicate violence against women, such as the establishment of the National Commission on Violence against Women (Komnas Perempuan), the Committee is concerned at the prevalence of such violence, which is exacerbated by a culture of silence and stereotypical attitudes on the role of women in the State party. The Committee is also concerned that, while the Penal Code puts the maximum

penalty for rape at 12 years' imprisonment, courts in the State party impose lenient penalties on rapists (arts. 2, 3 and 7).

The State party should adopt a comprehensive approach to prevent and address violence, including domestic violence, against women in all its forms and manifestations, including through awareness-raising on its harmful effects. In this regard, the State party should adopt programmes to eradicate stereotypes regarding the role of women and to ensure that it encourages female victims of violence to report such incidents to law enforcement authorities. The State party should ensure that cases of violence against women are thoroughly investigated, that the perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and that the victims are provided with adequate reparations. Furthermore, the State party should conduct regular training for judges and magistrates to ensure that the crime of rape is punished with appropriate penalties commensurate to the gravity of the offence.

#### Trafficking in Persons

18. While welcoming the adoption of Law No. 21 of 2007 on eradication of trafficking in persons and noting the State party's information that the number of trafficking cases had decreased in the period from 2011 to June 2013 (CCPR/C/IDN/Q/1/Add.1, para. 160), the Committee remains concerned at the prevalence of sex tourism and trafficking in the State party (art. 8).

The State party should intensify its efforts to identify victims of trafficking and ensure the systematic collection of data on trafficking, which should be disaggregated by age, sex and ethnic origin, and should also focus on trafficking flows from, to and in transit through its territory. The State party should intensify the provision of training programmes to police officers, border personnel, judges, lawyers and other relevant personnel in order to raise awareness of this phenomenon and the rights of victims. Furthermore, the State party should ensure that all perpetrators of trafficking in persons are investigated, prosecuted and, if convicted, adequately sanctioned, and should guarantee that adequate protection, reparation and compensation is provided to victims.

#### Committee on the Elimination of Discrimination against Women

## Concluding Observations, (7 August 2012), CEDAW/C/IDN/CO/6-7

#### Violence against women in conflict

27. The Committee is deeply concerned that sexual violence, especially rape, has reportedly been a recurring form of violence against women during conflict, including the events of 1965, the 1974-1999 conflict in the then East Timor Province, the May 1998 riots, the conflict in Aceh Province, the deployment of security and defence forces in Maluku Province and Poso (Central Sulawesi Province) and the conflicts in East Java and Papua Provinces. The Committee is concerned about the failure to prosecute and punish those responsible for violations of the human rights of women committed during the conflicts. It is further concerned about the lack of progress in providing women victims of sexual violence with justice, truth, reparation and rehabilitation for such human rights violations. The Committee is also concerned about the delay in finalizing and adopting the new draft law establishing a national truth and reconciliation commission after the

Constitutional Court, in 2006, repealed Law No. 27/2004, which had established a commission. The Committee is further concerned about reports indicating that many women and children remain internally displaced in the State party, including a large number of people recently displaced by renewed intercommunal violence in Maluku and East Java Provinces and by operations targeting rebels of the Free Papua Movement in Papua Province.

- 28. The Committee urges the State party:
  - (a) To promptly investigate, prosecute and punish all acts of violence against women, including acts of sexual violence, perpetrated by private actors and by the security and defence forces, the police and militant groups, ensuring that inquiries are conducted exhaustively, impartially and transparently;
  - (b) To provide full and effective reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of nonrepetition, to all victims of human rights violations committed during the conflicts;
  - (c) To take comprehensive measures to provide medical and psychological support to women victims of violence, including sexual violence, committed during the conflicts, and to establish counselling centres for women to overcome their traumatic experiences;
  - (d) To adopt the new draft law providing for the establishment of a national truth and reconciliation commission and to ensure that the commission has broad powers to receive complaints and investigate grave human rights violations;
  - (e) To ensure the security of internally displaced women and to allocate adequate resources to meet their needs, in particular their access to a livelihood, water and education for themselves and their children;
  - (f) To include women in the post-conflict reconstruction and peacebuilding process;
  - (g) To consider ratifying the Rome Statute of the International Criminal Court.

## Nationality

33. While noting with appreciation that the State party has held a campaign on birth registration and has increased funding of provincial and district/municipal governments administering birth registration, the Committee remains deeply concerned that a large number of childbirths have not been registered and that the lack of information, bureaucratic obstacles and financial barriers prevent poor and rural women from registering births and obtaining birth certificates.

- 34. The Committee recommends that the State party:
  - (a) Ensure the effective implementation of Law No. 23/2002, on child protection, which provides that every child must be given an identity from birth and Law No. 23/2006, on population administration, which provides that the issuance of the birth certificate shall be free of charge; and establish a monitoring mechanism to ensure the enforcement of these laws;
  - (b) Strengthen its public awareness-raising campaigns and take concrete measures to ensure that poor and rural women are aware of the

requirements relating to birth registrations and certificates and are able to easily access the birth certificate and registration services provided by the Government;

(c) Consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

## III. Special Procedures

## Report of the Special Rapporteur on adequate housing

Mission to Indonesia (26 December 2013), A/HRC/25/54/Add.1

## **Current housing situation and policies**

## Self-help housing and slum upgrading

16. According to official estimates, 80 per cent of housing development in Indonesia has been constructed through informal self-help systems of housing provision. The extent of areas officially classified as "slums" was estimated at 59,000 hectares in 2011 (23 per cent of the urban population living in slum areas in 2009) and is projected to reach 71,860 hectares by 2025 at an annual growth of 1.37 per cent. Historically, the "self-regulated" informal housing has helped the State to externalize the cost of providing low-cost housing for the poor.

17. An important part of these informal settlements is the urban *kampung* (village), an indigenous urban settlement mostly inhabited by lower middle class and poor people, a mixed-use highly densely populated area, for working and living. In general, *kampungs* are characterized by poor quality housing, lack of secure tenure, and lack of access to water, sanitation, drainage, and flood-control facilities, as well as by ambiguously defined legal status. However, housing conditions in the *kampungs* vary, as over time some have been connected to city facilities such as piped water, roads and drainage systems. With limited Government service provision, residents often access basic services through self-produced connections or unregulated intermediary service providers, to whom they typically pay higher fees for lower quality services.

19. Although the administrative and legal insertion of these settlements vary from city to city, as some are recognized in city plans and others are not, one portion of them is consensually classified by the State as "illegal". These are the *kampungs* that are located along riverbanks, canals, railways, green paths and parks, often in flood–prone zones, in contradiction to local and national spatial plans, rendering them completely "invisible" in city plans, "illegal" and vulnerable to evictions as well as natural hazards, such as floods and earthquakes. All levels of Government refrain from implementing housing policies and programmes in these settlements are worse than in other types of *kampungs*. These settlements clearly house the poorest among the urban poor, including internal migrants without identification cards.

## Forced evictions

57. Mass forced evictions may only be carried out under exceptional circumstances and in full accordance with international human rights law, which includes a number of strict conditions, such as (a) the obligation to provide full information on the purpose of the evictions; (b) legal remedies and legal aid to persons who are in need of seeking redress from courts; and (c) the taking of all appropriate measures to ensure adequate compensation and/or adequate alternative housing or resettlement. Evictions should not involve the use of force and should not result in individuals being rendered homeless. The solution should be reached by meaningful consultation with the affected communities to ensure that relocation results in the improvement of their standard of living or at least does not result in its deterioration.

## Access to housing of vulnerable groups

## Internal migrants

70. Despite the fact that nearly one in every four urban residents has migrated from rural areas, many of them still do not have identity cards for their current residential location and do not receive any public services (such as education and health).<sup>33</sup> Internal migrants are particularly vulnerable to the consequences of forced evictions. In the absence of identification cards, they are denied compensation or relocation. In many cases, the Special Rapporteur heard testimonies that the only solution offered to them is relocation back to their place of origin. However, such an option is not a sustainable solution, given the concentration of economic and employment opportunities – as well as services, education and health – in urban centres, particularly in Java.

71. While it might be common practice to establish minimum residency requirements for certain forms of State assistance, location-based identification or resident cards cannot constitute a form of *de jure* or *de facto* discrimination in accessing basic services and assistance, such as access to justice (against forced eviction) or due protection. Residents should be allowed to establish residency through other forms of proof, and allowed to access compensation, alternative housing and assistance where they have suffered harm or loss through eviction.

<sup>&</sup>lt;sup>33</sup> World Bank, *Indonesia: Urban Poverty and Program Review* (January 2013), p. 7.

## **Religious minorities**

72. The Special Rapporteur is concerned with reports received about forced relocation of religious minorities (particularly Shi'a and Ahmadiyya communities) that have been instigated by mobs, and based on religious incitement.<sup>34</sup> According to testimonies presented to the Special Rapporteur during her visit, homes, schools and places of worship have been burnt or destroyed in these attacks, forcing hundreds of families in different communities out of their homes into temporary shelters and accommodation without access to basic facilities, services and security.

75. The Special Rapporteur is concerned that authorities have failed to adequately protect these communities from forced evictions and acts of violence. She calls on the Government to ensure that displaced communities have immediate access to essential services such as food, clean drinking water and health services, and to guarantee their safe return to their homes, providing them with the necessary assistance to rebuild their homes that were damaged or destroyed.

## **Conclusions and recommendations:**

81. To this end, the Special Rapporteur offered specific recommendations throughout the report. She also calls on the Government to consider the following: [...]

## **Forced evictions**

(m) The Government of Indonesia should bring its national and municipal legislation and regulations regarding forced evictions, land acquisition and land concessions in line with international human rights law and standards;

Promoting equality and non-discrimination in access to housing

- (n) The Government should review and repeal national and regional laws, policies and practices which perpetuate discrimination (by State and non-State actors) in access to adequate housing of marginalized groups (such as women, LGBT people, internal migrants and religious minorities);
- (o) The Special Rapporteur encourages the State to ensure that victims of domestic violence across the country have access to shelters that are easily accessible, with priority given to female heads of households and victims of domestic violence.

<sup>&</sup>lt;sup>34</sup>Remarks by the United Nations High Commissioner for Human Rights during her visit to Indonesia, Jakarta, 13 November 2012. http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12781&LangID=E.

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# **EXHIBIT J**



## FEBRUARY 2, 2017 6:21PM EST DISPATCHES

## Indonesia's Religious Minorities Under Threat

Police, Militant Islamists Implicated in Religious Freedom Abuses



Andreas Harsono

Indonesia Researcher andreasharsono

Acts of religious intolerance and violations of religious freedom increased in Indonesia in 2016, with the country's religious minorities bearing the brunt of the rise.

The <u>Setara Institute</u>, a Jakarta-based organization that monitors religious freedom, reported an increase in acts of <u>religious intolerance</u> from 236 in 2015 to 270 in 2016, while <u>religious freedom violations</u> rose from 197 to 208.

More than half the incidents of religious intolerance – 140 – implicate government entities, including local government administrations and police. The most notorious example of religious intolerance was the complicity of Indonesian officials and police in the <u>violent forced eviction</u> of more than 7,000 members of the Gafatar religious community from their farms on Kalimantan island beginning in January 2016.



Two men hold the Indonesian flag as the compound of the Gafatar sect burns after being set on fire by local villagers, at Antibar village, West Kalimantan province, January 19, 2016.

Non-state actors including the© 2016 Jessica Helena Wuysang/ReutersIndonesian Ulema Council (MUI), a semi-official umbrella organization of Islamic groups, and the IslamDefenders Front (FPI), a thuggish militant Islamist group that campaigns for imposition of Sharia (Islamiclaw), were linked to 130 religious intolerance incidents. They included the MUI's issuance in February2016 of a fatwa, or decree, that declared Gafatar "heretical." Setara implicated the FPI in 17 incidents ofviolence against religious minorities in 2016, including Ahmadiyah and Christian congregations.

The escalation in religious intolerance and related violence can be traced back to 2005, when then President Susilo Bambang Yudhoyono effectively <u>legitimized religious intolerance</u> by vowing strict measures against "deviant beliefs." During his decade in office, Yudhoyono turned a <u>blind eye</u> to worsening acts of religious intolerance and violence by militant Islamists against religious minorities.

Indonesia's legal system perpetuates discrimination against religious minorities. Laws include the house of worship regulation, which requires minorities to get official approval to construct or renovate houses of worship, and the <u>blasphemy law</u>, which punishes deviations from the six officially protected religions with up to five years in prison. The blasphemy law has been used to prosecute and imprison members of religious minorities and of traditional religions. The most recent high-profile targets of the blasphemy law include <u>Jakarta Governor Basuki Purnama</u>, <u>FPI leader Rizieq Shihab</u> and three former Gafatar leaders now on trial in <u>Jakarta</u>.

Until the Indonesian government eliminates these discriminatory regulations and makes clear that police and government officials will face consequences for any complicity in religious bigotry, religious freedom in Indonesia will remain in peril.

# Correction

An earlier version of this news release misstated the calendar year for the Setara Institute's documentation of incidents of violence linked to the FPI. The news release has been changed to reflect this.

## **Region / Country**

- <u>Asia</u>
- Indonesia

## Topic

• Religious Freedom

# **More Reading**



September 25, 2017 Dispatches

## Deadly Drop Boxes Fuel Philippine's 'War on Drugs'

• September 24, 2017 Letter

## Letter from HRW To Interpol Secretary General Stock

Source URL: https://www.hrw.org/news/2017/02/02/indonesias-religious-minorities-under-threat

#### Links

[1] http://setara-institute.org/kebebasan-beragamaberkeyakinan-di-indonesia-2016/

[2] http://www.thejakartapost.com/news/2017/02/01/government-inaction-creates-space-for-rising-intolerance-in-

indonesia-.html

[3] https://www.hrw.org/view-mode/modal/298194

[4] https://www.hrw.org/news/2016/03/29/indonesia-persecution-gafatar-religious-group

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[6] https://www.hrw.org/news/2014/05/14/undoing-yudhoyonos-sectarian-legacy

[7] http://jakartaglobe.id/opinion/president-yudhoyonos-blind-side-religious-violence-indonesia/

[8] https://www.hrw.org/news/2016/11/21/indonesias-abusive-blasphemy-law-under-fresh-scrutiny

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# **EXHIBIT K**

## **INDONESIA 2016 INTERNATIONAL RELIGIOUS FREEDOM REPORT**

## **Executive Summary**

The constitution guarantees freedom of religion and the right to worship according to one's own beliefs but states citizens must accept restrictions established by law to protect the rights of others and to satisfy "just demands based upon considerations of morality, religious values, security, and public order in a democratic society." In December the governor of Jakarta, a Christian, was charged with blasphemy for reportedly insulting the Quran. In April authorities in Aceh carried out the first implementation of the province's special sharia law on a non-Muslim. Local authorities said the Christian woman who was caned had chosen to be punished under sharia rather than face civil punishments of fines or imprisonment, and that sharia regulations only applied to Aceh's Muslim residents. Ahmadi Muslims reported incidents of detention, forced conversion, forced eviction, discrimination, and mosque closures. The government banned the Gafatar religious group and arrested three of its leaders for blasphemy and treason. There were reports authorities were complicit in the eviction of nearly 8,000 Gafatar members. Many religious groups outside the six officially recognized religions reported issues with identifying their religion on their national identification cards (KTP). The government took steps to address specific longstanding religious disputes, such as the displacement of Ahmadis on Bangka Island and defacement of Buddhist temples in Tanjung Balai, but not all were resolved. There were instances in which local governments and police gave in to the demands of groups, such as the Islam Defender's Front (FPI), Islamic Community Forum (FUI), Islamic Jihad Front (FJI), and the Indonesian Mujahideen Council (MMI), which are locally labeled as "intolerant groups," to close houses of worship for permit violations or otherwise restrict the rights of minority religious groups. The government at both the national and local levels at times reportedly failed to prevent or appropriately address intimidation and discrimination against individuals based on their religious beliefs. Both the central and local governments included elected and appointed officials from minority religious groups, and elected politicians from religious minorities served in majority Muslim districts. Some local governments imposed local laws and regulations restricting the religious freedom of minority and majority religious groups.

There were two ISIS-inspired attacks on churches, which security services said were carried out by individual, lone-wolf attackers. One attack resulted in the death of a child and the other was a knife attack on a priest. An assailant threw a

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Molotov cocktail at a Buddhist temple in November. In response to most cases of attacks on religious facilities or figures, the government apprehended the individuals involved, and together with the community condemned the attacks and called for the protection of religious minority groups. Much of civil society, including religious organizations from all faiths, worked to counter intolerant messages and ideologies and promote tolerance of minority religious groups and pluralism. "Intolerant groups," however, disrupted religious gatherings, illegally closed houses of worship, and widely disseminated materials promoting intolerance. Shia Muslims and Christians reported threats of violence and intimidation for gathering in public or attempting to return to their hometowns to celebrate holidays.

The U.S. government advocated for religious freedom at the highest levels, with both government and civil society leaders, and spoke out publicly against discrimination and religious violence. The U.S. Ambassador at Large for International Religious Freedom visited in October and discussed religious freedom with a variety of government officials, civil society leaders, and religious groups in Jakarta, Banda Aceh, Bali, and Surabaya. Embassy and consulate officials engaged on specific issues, including actions against religious minorities, closures of places of worship and access for foreign religious organizations, arrests for blasphemy and defamation of religion the importance of tolerance and the rule of law, the application of sharia to non-Muslims, and religious identification requirements on national identification cards. With support from the U.S. and Indonesian governments, a nonprofit organization initiated the formation of the Indonesia-U.S. Council on Religion and Pluralism comprised of religious and civil society leaders, academics, and experts to promote interfaith dialogue and tolerance and to combat violent extremism. The embassy and consulates carried the message of respect for diversity and religious tolerance to tens of millions of people in the country through outreach efforts, including events, media interviews, social media initiatives, digital and public speaking engagements, youth exchanges, and educational programs.

## Section I. Religious Demography

The U.S. government estimates the total population at 258.3 million (July 2016 estimate). According to the 2010 census, approximately 87 percent of the population is Muslim, 7 percent Protestant, 3 percent Roman Catholic, and 1.5 percent Hindu. Those identifying with other religious groups, including Buddhism, traditional indigenous religions, Confucianism, and other Christian

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denominations, and those who did not respond to the census question comprise approximately 1.3 percent of the population.

The Muslim population is overwhelmingly Sunni. An estimated one to three million Muslims are Shia. Many smaller Muslim groups exist; estimates put the total number of Ahmadi Muslims at 200,000 to 400,000.

An estimated 20 million people, primarily in Java, Kalimantan, and Papua, practice various traditional belief systems, often referred to collectively as *aliran kepercayaan*. There are approximately 400 different *aliran kepercayaan* communities throughout the archipelago. Many religious groups incorporate elements of Islam, Hinduism, and Buddhism, making it difficult to disaggregate the exact number of followers.

There is a small Sikh population estimated at between 10,000 and 15,000, primarily in Medan and Jakarta. There are very small Jewish communities in Jakarta, Manado, Jayapura, and elsewhere. The Bahai Faith and Falun Dafa (or Falun Gong) community report thousands of members, but no independent estimates are available. The number of atheists is also unknown, but the group Indonesian Atheists states it has more than 500 members.

The province of Bali is predominantly Hindu, and the provinces of Papua, West Papua, East Nusa Tenggara, and North Sulawesi are predominantly Christian.

## Section II. Status of Government Respect for Religious Freedom

## Legal Framework

The constitution guarantees the right to choose and practice the religion of one's choice and specifies that freedom of religion is a human right that cannot be limited. The constitution states, "The nation is based upon belief in one supreme God," but guarantees all persons the right to worship according to their own religion or belief. The law restricts citizens from exercising these rights in a way that impinges on the rights of others, oversteps common moral standards and religious values, or jeopardizes security or public order.

The Ministry of Religious Affairs (MRA) extends official status to six religious groups: Islam, Catholicism, Protestantism, Buddhism, Hinduism, and Confucianism. The law prohibits deliberate public statements or activities that insult or defame any of the six official religious groups, or have the intent of

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preventing an individual from adhering to an official religion. The law also stipulates that in any case of defamation of the six officially recognized religions, the Ministry of Home Affairs (MOHA), the MRA, and the Attorney General's Office (AGO) must first warn the individual in question before he or she can be charged. The law also forbids the dissemination of information designed to spread hatred or dissension among individuals and/or certain community groups on the basis of ethnicity, religion, or race. Individuals may be prosecuted for blasphemous, atheistic, or heretical statements under either of these provisions or under the laws against defamation, and can face a maximum jail sentence of five years. The internet law forbids the electronic dissemination of the same types of information, with violations carrying a maximum six-year sentence. Religious groups other than the official six may also register with the government, making them eligible to establish a place of worship, register marriages and births, and obtain national identity cards (KTPs). Laws allow followers of beliefs outside the six recognized religious groups to leave the religion section blank on their KTPs.

Organizations representing one of the six official religious groups are not required to obtain a legal charter if they are established under a notary act and obtain approval from the Ministry of Law and Human Rights. Unofficial religious organizations must obtain a legal charter as a civil society organization from the MOHA. Both ministries consult with the MRA before granting legal status to religious organizations. For an organization to be considered a religion, it must have a prophet, holy book, deity, and be recognized internationally. By law, all religious groups must be registered in some form. Under the law, civil society organizations are required to uphold the national ideology of Pancasila, which encompasses the principles of belief in one God (although Buddhism and Hinduism are official religions), justice, unity, democracy, and social justice, and they are prohibited from committing blasphemous acts or spreading religious hatred. Violations of the law could result in a loss of legal status, dissolution of the organization, and arrest of members under the blasphemy law or other applicable laws. Indigenous religious groups may also register with the Ministry of Education and Culture as *aliran kepercayaan* rather than as religious organizations.

A joint ministerial decree bans both proselytizing by the Ahmadi Muslim community and vigilantism against the group. Violation of the proselytizing ban carries a maximum five-year prison sentence on charges of blasphemy. No Ahmadis have ever been charged with blasphemy, but provincial and local regulations based on this decree place tighter restrictions on Ahmadis than on recognized religious groups. The proselytizing ban does not prohibit Ahmadi Muslims from worshipping or continuing to practice within their community.

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The government requires all officially registered religious groups to comply with directives from the MRA and other ministerial directives on issues such as construction of houses of worship, foreign aid to domestic religious institutions, and propagation of religion.

According to a joint ministerial decree, religious groups seeking to build a house of worship are required to obtain the signatures of at least 90 members of the group and 60 persons of other religious groups in the community stating they support the construction. Local governments are in charge of implementing the decree, and local regulations, implementation, and enforcement vary widely. The decree also requires approval from the local interfaith council, the Religious Harmony Forum (FKUB). Government-established FKUBs exist at the city or district level and comprise religious leaders from the six official religious groups. They are responsible for mediating interreligious conflicts.

The law requires religious instruction in public schools. Students have the right to request religious instruction in any one of the six official religions. Individuals are not allowed to opt out of religious education requirements.

Under the terms of a 2005 peace agreement that ended a separatist conflict, Aceh Province has unique authority to implement sharia regulations. The law allows for provincial implementation and regulation of sharia, and extends the jurisdiction of religious courts to economic transactions and criminal cases. Aceh's provincial sharia regulations criminalize homosexuality, adultery, gambling, consumption of alcohol, and proximity to members of the opposite sex outside of marriage for Muslim residents of the province. An Aceh governor's decree forbids women from working in or visiting restaurants unaccompanied by their spouse or a male relative after 9:00 p.m. A Banda Aceh mayoral decree forbids women from working in coffee shops, internet cafes, or sports venues after 10:00 p.m. Female Muslim residents of Aceh are prohibited from wearing tight pants in public and must wear headscarves. One district in Aceh prohibits women from sitting astride motorcycles when riding as passengers. A new criminal code that took effect in Aceh during the year calls for caning of those convicted of homosexuality, adultery, and other offenses. The maximum penalties for violations of sharia regulations include imprisonment and public caning. There are also regulations limiting the amount of force that may be applied during a caning.

Many local governments outside of Aceh have enacted regulations based on religious considerations. Most of these are in majority Muslim areas, although

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local governments in non-Muslim majority areas also have enacted regulations based on religious considerations. Many of these regulations relate to matters such as religious education and only apply to a specific religious group. Some religiously inspired local regulations in effect, however, apply to all citizens. For instance, some local regulations require restaurants to close during Ramadan fasting hours, ban alcohol, or mandate the collection of *zakat* (Islamic alms). Other local regulations forbid or limit the religious activities of minority religious groups, especially Shia and Ahmadi Muslims.

The marriage law does not explicitly forbid interfaith marriage, but it contains an article stipulating that a marriage must be performed according to the rituals of a religion that is shared by both the bride and groom. This means that a man and woman of different religions who seek to marry may have difficulties finding a religious official willing to perform a wedding ceremony.

The law allows a Muslim man to have up to four wives, provided he is able to support each equally. For a man to take a second, third, or fourth wife, he must obtain court permission and the consent of the first wife. These conditions, however, are not always met in practice.

The marriage law makes polygamy illegal for civil servants, except in limited circumstances. Government regulations require Muslim male civil servants to receive permission from a government official and their first wives prior to marrying a second, third, or fourth wife, and prohibit female civil servants from becoming second, third, or fourth wives.

The law requires the leader of an *aliran kepercayaan* group must prove there are group members in at least three regencies before legally officiating a wedding. This constraint effectively bars believers of some smaller groups without such geographic presence from receiving official marriage services from a member of their faith, although groups can aid each other and facilitate marriages by a group with a similar faith tradition and rituals.

A joint ministerial decree requires domestic religious organizations to obtain approval from the MRA to receive funding from overseas donors and forbids dissemination of religious literature and pamphlets to members of other religious groups as well as going door to door for the purposes of converting others.

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Foreign religious workers must obtain religious worker visas, and foreign religious organizations must obtain permission from the MRA to provide any type of assistance (in-kind, personnel, or financial) to local religious groups.

The country is a party to the International Covenant on Civil and Political Rights.

## **Government Practices**

There were arrests and charges for blasphemy and insulting religion, including charges filed against the governor of Jakarta for insulting the Quran and a man charged in Central Java who reportedly tore apart the Quran. In Aceh, there were public canings by local officials for sharia violations, including for the first time of a non-Muslim. There were reports of government attempts of forced conversions of Ahmadi Muslims to Sunni Islam. Members of the Ahmadi Muslim community on Bangka Island were threatened with forced expulsion from the island in January for not converting. The government banned the Gafatar group and there were reports authorities were complicit in the eviction of nearly 8,000 members from their homes. The government took steps to address certain longstanding religious disputes, including the displacement of Ahmadis on Bangka Island and defacement of Buddhist temples in Tanjung Balai, but not all were resolved. There were instances where local governments and police gave in to the demands of "intolerant groups" to close houses of worship for permit violations, or otherwise restrict the rights of minority religious groups. The National Human Rights Commission (Komnas HAM) reported the government at both the national and local levels at times failed to prevent or appropriately address intimidation and discrimination against individuals based on their religious beliefs. Reportedly people who left the religion portion of their identity card blank were denied public services at times.

The Setara Institute, a domestic nongovernmental organization (NGO) that conducts advocacy and research on religious and political freedom, stated the central government made efforts to reaffirm constitutional guarantees of religious freedom, promote tolerance, and prevent religiously motivated violence. It also stated the central government did little to intervene at the local level or solve past religious conflicts through its mandate to enforce court rulings, override unconstitutional local regulations, or otherwise uphold the constitutional and legal protections afforded to minority religious groups. Local governments selectively enforced blasphemy laws, permitting regulations, and other local regulations in ways that affected various religious groups. For example, local governments issued decrees banning Ahmadi and Shia teachings, and reportedly did not act

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when threats were made against these groups. Government officials and police sometimes failed to prevent "intolerant groups" from infringing on others' religious freedoms and committing other acts of intimidation. Police did not always actively investigate and prosecute crimes by members of "intolerant sectarian groups." President Joko Widodo publicly stated he expected the police to protect religious communities of all faiths when the new National Police Chief Tito Karnavian was inaugurated in June.

The Setara Institute reported 44 cases of government abuses of religious freedom between January and August, compared to 70 cases in the first eight months of 2015. Abuses cited included the closure of houses of worship and statements by public officials that condoned violence towards minorities, especially Ahmadi Muslims and members of the Gafatar group.

On April 12, a 60-year-old Christian woman was caned in Aceh for selling alcohol, marking the first time a non-Muslim was punished under Aceh's special shariabased law. A ban on selling alcohol is both a local and sharia regulation that applies to all residents of the province. Muslims who violate the ban are punished under sharia while non-Muslims may choose to be punished under either sharia or civil procedures. Aceh provincial officials in charge of sharia law enforcement stated the woman chose to be punished under sharia rather than the criminal statutes, which may carry fines and imprisonment. Authorities in Aceh issued a public statement saying sharia did not apply to non-Muslims, foreigners, or Muslim Indonesians not resident in Aceh. In October Aceh authorities also publicly caned 13 men and women for violating sharia laws on proximity and intimacy, such as touching, hugging, and kissing between unmarried people. Aceh's deputy mayor said that one 22-year-old woman who was pregnant was granted a temporary reprieve to be carried out after she gave birth.

The MRA maintained its authority at both the national and local level to conduct "development" of religious groups and believers, including efforts to convert minority religious groups to Sunni Islam. In several West Java regencies, local governments continued efforts to force or encourage conversion of Ahmadi Muslims with a requirement that Ahmadis sign forms renouncing their beliefs in order to register their marriages or participate in the Hajj.

On January 5, the Regent of Bangka Belitung issued a letter threatening to expel 22 Ahmadi families from Bangka Island where they had lived for decades. The regent gave the families a deadline to convert to Sunni Islam or leave their homes, saying the Ahmadi Muslims were upsetting local community members and threatened

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local peace and stability. According to news reports, Ahmadi children also received death threats and on February 5, the Ahmadis left their homes. The regency said its decision to expel the Ahmadis was based on a meeting with the FKUB and on a joint agreement signed by three local ministers. On February 10, then National Police Chief Badrodin Haiti gave orders to Bangka police to protect Ahmadi families from expulsion from the island, and instructed police chiefs throughout the country to prevent acts of coercion or violence against Ahmadis. After these efforts the local government and Ahmadi community said the issue was resolved. Some Ahmadis chose to move to other regions with larger Ahmadi populations.

On March 23, the MRA, MOHA, and AGO released a joint decree banning Gafatar and all associated groups, saying the group's teachings constituted a deviant form of Islam. On May 25, police arrested the founder and two top leaders of Gafatar on accusations the group was creating a separatist state. The police stated the group would face blasphemy and treason charges. As of the end of the year, the three individuals were awaiting trial.

According to a Human Rights Watch report in May, government officials and security forces were complicit in the forced eviction of 7,000 Gafatar members from their homes after the local government declared Gafatar to be an illegal organization that must disband its activities. The NGO said in other cases security forces prevented attacks on Gafatar members but only by forcibly evacuating them from Kalimantan to Java, then arbitrarily detaining, interrogating, and threatening them with criminal charges. Gafatar members indicated the number of evicted members was closer to 8,000 by year's end and that many of those forced to move to Central and East Java were unable to obtain new KTPs after authorities had confiscated their previous identity cards during their stays in shelters. Reportedly, some were forced to undergo reeducation programs or mandatory all-day "patriotic education." On January 19, approximately 1,200 Gafatar members were forced to evacuate their village in Mempawah Regency, West Kalimantan after a mob set fire to nine homes.

On June 14, police detained eight Ahmadis on Lombok for participating in Ramadan prayers in their village's Sunni mosque. According to media reports, police detained the Ahmadis "for their own protection." An Ahmadi spokesperson said police had asked members of the Ahmadi congregation to sign a letter denouncing their beliefs. The Ahmadi community refused to sign but agreed not to gather together in one place or carry out Ramadan prayers in public mosques with Sunnis. The eight detained were subsequently released. Village authorities also

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reportedly forced the Ahmadi members to surrender all Ahmadi-related books and forbade Ahmadi preachers from other regions from entering the village. Approximately 200 Ahmadis remained internally displaced in cramped apartments in the main city of Mataram after a mob expelled them from their Lombok village in 2006.

On July 29, a mob looted or burned down 12 Buddhist temples in Tanjung Balai, North Sumatra, after a Buddhist woman of Chinese descent asked the Al Maksum Mosque to lower its loudspeaker volume. President Joko Widodo publicly condemned the act and called upon regional leaders to promote "unity in diversity" and build a tolerant society. He also sent the chief of national police to the city in an effort to contain the situation. Other local and national leaders, including Vice President Jusuf Kalla, called for greater religious and racial tolerance in North Sumatra. More than 20 local government, religious, and ethnic leaders representing the Muslim and ethnic Chinese communities signed a formal memorandum of understanding committing to promote harmony between different religions and ethnicities and supporting law enforcement action against those who would disturb interfaith relations. Police reported the arrests of 21 young men who were directly involved in the incident.

In December the Governor of Jakarta, Basuki Tjahaja Purnama (known as "Ahok"), the first Christian governor of Jakarta in more than 50 years, was charged with blasphemy for defaming the Quran during a campaign speech in September in which he told a crowd of voters it was wrong to manipulate verses from the Quran for political gain. The speech was met with criticism from the FPI, the Indonesia Ulema Council (MUI), and other Muslim groups who filed a police complaint to launch an investigation. Minister of Religious Affairs Lukman Hakim Saifuddin said, "Let the police resolve the matter in a civilized manner, without Muslims being provoked and aggravated." On November 4, an estimated 100,000 to 150,000 people participated in a protest in Jakarta organized by the FPI and other groups calling for Ahok's arrest for blasphemy. The protest ended in riots that injured more than 100 people, and on November 16, authorities officially named Ahok a suspect. On December 2, a reported 200,000 to 450,000 people rallied in Jakarta in a second protest against the governor. Ahok apologized but denied he committed blasphemy, saying he had no intention to insult the Quran and that his comments were directed at his political opponents, not Islam.

On October 31, police in Central Java charged a man with blasphemy because he reportedly tore apart the Quran. Police said the man tore his girlfriend's Quran as

an act of jealousy during an argument. The man reportedly converted to Islam in December and as of the end of the year was waiting for trial.

Members of minority religious groups continued to seek official recognition from the government.

On July 26, the local government closed an Ahmadi mosque in Sukabumi, West Java. According to the local officials, the closure was undertaken to preserve public order following complaints against the mosque's Ahmadi affiliation.

East Java Ahmadi leaders said a village leader shut down their mosque in rural Tulungagung in January, citing a 2011 decision by East Java Governor Soekarwo to freeze Ahmadi activities. Ahmadis stated the local leader, supported by local police, had misinterpreted a freeze (which would not have affected private activities) as a ban (which would have required the group to stop practicing its faith altogether). The mosque remained closed at year's end.

Ahmadis reported feeling under constant threat from militant groups. An Ahmadi mosque in South Jakarta remained officially closed by the local government after a July 2015 incident in which members of the FPI blocked the entrance of the Ahmadi headquarters building and mosque. Ahmadis said legal uncertainty among local officials and police, anonymous threats of violence, insufficient police protection, and fear of publicity were the barriers to reopening the building.

There were other cases of local governments, sometimes supported by police, closing houses of worship of minority groups for permit violations, often after protests from "intolerant groups" even if the minority groups had a proper permit. NGOs estimated, however, that as many as 85 percent of houses of worship, the majority of which are Sunni mosques, were operating without a permit. Many houses of worship operated without permits in office buildings, malls, private homes, and shops. Some houses of worship that were established before the joint ministerial decree on house of worship construction came into effect were still obligated to meet the requirements or face closure.

Mayor of Bandung Ridwan Kamil issued a ruling that an "intolerant group's" December 6 disbandment of a large Christmas service held at a public convention center was against the law. He demanded the Muslim group, Pembela Ahli Sunnah, issue a formal apology.

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National Police Chief Karnavian said an MUI fatwa prohibiting Muslims from wearing Christmas attire was not a law in the country and instructed police to arrest members of "intolerant groups" who conducted raids to enforce the fatwa. Karnavian reprimanded local police who circulated leaflets based on the MUI edict but said the police would not tolerate companies or store owners who forced their employees to wear Christmas attire. Karnavian's remarks came after reports FPI members, accompanied by about 200 police officers, went to shopping malls in Surabaya to remind businesses not to require Muslim employees to wear Christmas attire such as Santa hats. President Joko Widodo and Minister of Religious Affairs Saifuddin also urged the public to respect Christians and to be tolerant of the country's diverse religious groups.

Minority religious groups reported difficulty in meeting permit requirements for new and existing houses of worship and stated local government officials declined to approve construction permits, in one case for more than 15 years for a church. Many could not obtain the requisite number of outside signatures supporting the construction and often faced protest from "intolerant groups" making getting permits nearly impossible. Even when permits were attained, some houses of worship were forced to close or halt construction after facing legal challenges and public protest. Churches also reported "intolerant groups" forced them to pay protection money to continue operating without a permit.

On March 7, approximately 700 protesters who said they represented the Bekasi Islamic Outreach Forum marched to the construction site of Santa Clara Catholic Church in Bekasi to protest its construction. Local police protected the site and in general kept protesters under control. Minister of Religious Affairs Saifuddin issued a statement urging the dispute to be resolved through peaceful dialogue rather than through "excessive force aimed at disturbing interfaith harmony." Construction of the church was still in progress as of the end of the year.

An Indonesian Christian Church (GKI) congregation in Bogor, West Java, continued negotiating issues related to its building permit after it was closed in 2010 by local authorities who complied with public pressure to close the church. The national ombudsman previously tried unsuccessfully to convince Bogor Mayor Bima Arya to uphold a Supreme Court ruling in favor of the congregation in its dispute with the local government over the building permit. The congregation regularly held services outside of the Presidential Palace.

Across the eastern part of the country, the requirement to cite support from 90 followers and 60 nonadherent neighbors to build a place of worship was not

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followed in practice. Balinese Christians and Muslims stated the official requirement to cite a specific number of supporters was undermined, either because governments did not issue permits when the requisite numbers were obtained or because neighbors were pressured to not approve. In many local cases, a few vocal opponents from the local majority religious affiliation were reportedly sufficient to stop construction approvals. State-recognized religious leaders in government-supported interfaith forums reportedly found ways to block aliran kepercayaan believers from constructing places of worship, largely through stringent house of worship permit requirements. Aliran kepercayaan adherents said they were fearful of being accused of atheism were they to fight this in court. Other religious minorities such as Ahmadi and Shia Muslims and Christians faced problems even when seeking approval to move to temporary facilities while a primary place of worship underwent renovation. Protestant leaders said local and provincial governments did not understand different Christian denominations and were suspicious when members of congregations traveled far to attend church instead of going to whatever church was closest to their residence. Religious minority communities said administrative suspicions and inaction blocked renovation or construction of new facilities even when they fulfilled the legal prerequisites.

Civil rights activists said locally implemented sharia-based regulations violated the constitution and called on the central government to exercise its constitutional jurisdiction to revoke or review these regulations. A 2014 law reaffirmed the MOHA's authority to revoke local regulations concerning religious matters that violated the constitution or national law, but there were no reports the MOHA had exercised this authority.

In May sharia police officers, who are part of the Aceh provincial government's sharia implementation apparatus, stopped dozens of women in Lhokseumawe who were not riding motorcycles sidesaddle, and reprimanded approximately 100 people, both men and women, who were not dressed according to sharia regulations.

On July 4, Armed Forces Commander Gatot Nurmantyo issued an order to allow female soldiers to wear hijabs. In August a fifth-grade student at a state elementary school in Christian-majority Jayapura was given a written warning not to wear a hijab in school on the grounds that it was not in line with the school's uniform.

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In May the police chiefs of the Jakarta Metropolitan Area and East Aceh issued directives forbidding "intolerant groups" from conducting sweeps of food stalls open for business before sundown during Ramadan.

*Aliran kepercayaan* followers said they were pressured to send their children to a religious education class of one of the six recognized religions. Bahai followers said schools often allowed their children to spend religious education time in study hall, but parents were required to sign documents stating their children received official religious education. Ahmadi Muslim students reported religion classes for Islam only focused on Sunni teaching.

Civil servants who openly professed an adherence to an indigenous belief system said they had difficulty getting promoted.

Although the government generally allowed citizens to leave the religion column blank on their KTPs, some members of minority religious groups reported difficulties accessing government services and experiencing other forms of discrimination if they exercised this right. The lack of a KTP led to issues ranging from an inability to register for health insurance to problems applying for mortgages. Faced with this problem, many religious minority members reportedly chose to identify as a member of an officially recognized religion that is close to their beliefs or reflects the locally dominant religion. This practice obscured the real number of adherents to any particular religious group in government statistics. The government continued to allow *aliran kepercayaan* believers to omit religious information on their identity cards, but when accessing basic social services other government forms did not always permit leaving this section blank.

Several NGOs and religious advocacy groups continued to urge the government to delete the religion field from the identity cards. Religious minorities reported they sometimes faced discrimination after others saw their religious affiliation on the KTP. Members of the Jewish community said they felt uncomfortable stating their religion on their KTPs and often chose to state that they were Christians. According to a report in the *Jakarta Post*, followers of Javanese faith Sapto Darmo reported they were prohibited from burying the remains of their family members in public cemeteries after community members realized they did not identify as one of the six official religions on their KTP. Members of the indigenous Parmalim faith also reported being refused KTPs when the officials who processed their registration application saw that they did not declare a religion. Data from an NGO showed approximately 42,000 followers of several traditional faiths were denied basic civil registry documentations such as KTPs, birth certificates, and

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marriage licenses, and approximately 80,000 could not access public services. In response, the MOHA said members of indigenous religions were entitled to the same access to basic services, regardless of what they did or did not declare as their religion on their KTP, and that such discrimination was a violation of the law.

Minority Muslim groups also continued to report resistance when they tried to apply for KTPs as Muslims. Many Ahmadis continued to be able to acquire KTPs listing their religion as Islam; Ahmadis in Jakarta, however, reportedly faced difficulties acquiring KTPs, effectively denying them access to public services. Like other religious minorities, Ahmadis and Shia reported discrimination in the administration of public services if they chose to leave the religion column blank on their KTPs. Bahai followers also reported difficulties, as many local officials were unaware of the option to leave the religion section blank and refused to issue the KTP.

Both the central and local governments included elected and appointed officials from minority groups. For example, the Governor of Jakarta was a Protestant, the Mayor of Solo was a Catholic, and a leading Shia figure held a seat in the House of Representatives, elected from a majority Sunni district in Bandung, West Java. As of July, President Joko Widodo's 34-member cabinet included five members of minority faiths.

Foreign religious workers stated they found it relatively easy to obtain visas. Despite laws restricting proselytizing, foreign religious groups reported little government interference with preaching or religious conversions. Police provided special protection to some churches in major cities during Sunday services and Christian holidays.

## Section III. Status of Societal Respect for Religious Freedom

One child was killed and three children were injured in what security officials said was a lone-wolf ISIS-inspired attack on November 13 when a former terrorist prisoner detonated a Molotov cocktail in front of a church in Samarinda, East Kalimantan, following a Sunday service. The suspect was arrested and the president called for a thorough investigation and condemned religious violence. Investigation into the attack remained ongoing.

On August 29, a man attacked a priest holding Mass at St. Joseph Catholic Church in Medan. The man had failed to detonate a homemade suicide bomb and instead assaulted the priest with a knife before being overpowered by parishioners. Police

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said the man was a lone-wolf attacker who was inspired by ISIS propaganda online, had a connection with an Indonesian in Syria, and was not motivated by sectarian tensions within Indonesia. The priest suffered minor injuries. Government officials and Muslim community leaders condemned the attack.

A Molotov cocktail was thrown at a Buddhist temple in Singkawang, West Kalimantan early in the morning on November 14. The government spoke out against religious intolerance, offered protection and assurances for the religious community affected, and as of the end of the year, had questioned eight people as part of an investigation into the incident, according to media reports.

NGOs warned of rising anti-Shia sentiment in East Java, the heartland of the Nahdlatul Ulema (NU) Sunni Muslim organization. According to reports, local NU-affiliated imams continued to block reconciliation and the return of Shia internally displaced people (IDPs) to their homes in a case that has continued for several years. Several days before Eid al-Fitr, certain local Sunnis in East Java prevented hundreds of Shia IDPs from returning to their homes on Madura for the holiday. They threatened to kill Shia who tried to return and harm people who assisted them. No violent clashes were reported during this event, but there were no reports of Shia being able to return home because of the intimidation and threats of violence. More than 300 Shia reportedly remained displaced and unable to return to Madura. Anti-Shia rhetoric was also common in some online media outlets and on social media.

On April 1, hundreds of people calling themselves the Aswaja (Adherents to the Sunnah and the Community), a loose coalition of a number of NU and Persatuan (an Islamic educational organization) schools, broke up a gathering of 100 Shia women in Pasuruan district south of Surabaya. The women were celebrating the birthday of the Prophet's daughter, Fatima, an important event in Shia tradition. Police, military, and district public order forces who were present to safeguard the event responded to Aswaja's demands, and after two hours the Shia dispersed.

On April 6, more than 10,000 Shia from East Java gathered in Bondowoso for a religious commemoration, despite vows by 3,000 anti-Shia protestors to disrupt the event. According to local media, security forces deployed 1,751 police and military to prevent the protestors from disrupting the Shia gathering. The local police chief attended the Shia events as an observer to help prevent clashes, according to a Shia leader.
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In Christian-majority North Maluku, on August 24, seven members of the Shia Jafariyah congregation led by Nawawi Husni were subject to intimidation by local residents after holding a religious event in Marikurubu Subdistrict. Local police were deployed to ensure the safety of the Shia members. The police later evacuated the congregation to the police headquarters after local residents tried to damage their houses. The Shia eventually returned safely to their homes.

Members of Manado's small Jewish community reported being intimidated by their Christian neighbors after a weekly Shabbat observance.

People affiliated at the local level with the MUI used rhetoric religious minorities considered intolerant. The MUI issued edicts against members of Gafatar in February. On June 13, the MUI protested the clothing worn by two female hosts of a Ramadan television show, stating it depicted Christian crosses. On August 25, the MUI and FPI protested the uniforms of a group of people raising the national flag in Banten, stating their uniforms depicted the Christian cross.

In March a group of church leaders in a Christian-majority region of Papua called on local officials in the highland town of Wamena to prevent the expansion of an existing mosque, ban the use of mosque loudspeakers, prohibit the wearing of headscarves in public, and stop forcing Papuan children to attend Islamic boarding schools. Several prominent Papuan religious leaders disavowed the petition of the Wamena churches as harmful to religious harmony. Komnas HAM called on the church groups to revoke the petition but agreed that Papuan children, the majority of whom are Christian, should not be forcibly sent to Islamic boarding schools. Papuan provincial Governor Lukas Enembe convened a meeting with the Papuan FKUB, religious leaders, and police to call on all sides to engage in interfaith dialogue to prevent any further escalation.

Religious minorities in Bali stated the close association of Balinese traditional culture with Balinese Hinduism created problems for Balinese who converted to Christianity, Islam, or another religion. Religious minority leaders reported Balinese women could maintain their family and social ties after converting to a new religion under recently introduced laws articulating the rights of inheritance and custody, but the laws were ignored in practice. Balinese men who converted to a new religion faced social banishment and loss of inheritance rights.

According to news reports, unknown perpetrators vandalized an Ahmadi mosque in Purworejo village, Kendal Regency, Central Java Province on May 23. The Ahmadi congregation had been in an ongoing dispute with local leaders over the

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construction of the mosque and the local Ahmadi leader cited a recent argument with the local village head as the provocation for the incident. On May 25, the local government facilitated mediation and the Ahmadis agreed to halt construction on the mosque pending a police investigation. Following the police investigation, the local village leader initiated a community effort to reconstruct the mosque, and police publicly stated they would protect the Ahmadi's right to worship in the community.

Many in the media, civil society, and the general population were vocal and active in protecting and promoting tolerance and pluralism. NGOs reported large numbers of Christian-to-Muslim and Muslim-to-Christian conversions, particularly in urban centers and the province of West Java. Many people who converted faced discrimination. The largest and most influential religious groups and NGOs, including the two largest Islamic groups in the country – NU and Muhammadiyah, with some 40 and 30 million members, respectively - officially endorsed and advocated for tolerance, pluralism, and the protection of minority groups. On April 9, for instance, NU Chairman Said Aqil Siradj publicly called on all NU members to uphold tolerance and moderate values as part of Islam. Muhammadiyah Chairman Haedar Nasir called on Indonesians to respect other religions and reject all communal violence after the August temple burnings in Tanjung Balai. "Intolerant groups" that were accused of using religion to justify criminal activity and vigilantism, however, continued to take actions against minority religious groups, including intimidation, extortion, vandalism, and protest. "Intolerant groups" reportedly accept bribes to advance corrupt political and business interests through their protests and actions. Komnas HAM stated "intolerant groups" in West Java extorted "hundreds of millions" of rupiah (thousands of dollars) from churches by threatening to vandalize and protest outside churches if they did not comply.

Leaders of the High Council of Indonesian Traditional Belief Adherents reported their numbers were in decline, largely due to formal and informal discrimination from government practices and societal attitudes.

Religious groups cooperated with each other and with other organizations on interfaith conferences and events, advocating for respect and tolerance, and speaking out against violence. For instance, NU Deputy Secretary General Imam Pituduh told the *Jakarta Post* members of the organization's youth wing "will be at the forefront of protecting Christian fellow citizens while conducting prayers and activities ahead of Christmas. This is in the name of tolerance." A local Hindu leader in Bali suggested the people of Denpasar participate in the *takbiran*, which

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are festivities that occur the night before Eid al-Fitr. An estimated 1,500 non-Muslims in Denpasar participated. Muhammadiyah maintained an interfaith humanitarian network, and throughout the country, FKUB chapters took steps to affirm religious pluralism by mediating interreligious conflicts. Christians in Maluku provided free rides for Muslims going to prayer services during Eid al-Fitr after Muslims offered Christians rides to attend Christmas Eve services and safeguarded their churches during religious services in December 2015.

## Section IV. U.S. Government Policy

The U.S. Embassy in Jakarta, the Consulate General in Surabaya, and the Consulate in Medan regularly engaged with all levels of the government on specific religious freedom issues, such as actions against religious minorities; closures of places of worship; arrests for blasphemy and defamation of religion; the undue influence of "intolerant groups" and the importance of the rule of law; the application of sharia to non-Muslims; religious registration requirements on KTPs; the importance of education and interfaith dialogue in promoting tolerance; and promotion of tolerance in international forums. During his October visit, the U.S. Ambassador at Large for International Religious Freedom conducted public outreach and met with government, NGO, and religious leaders in Jakarta, Banda Aceh, Bali, and Surabaya to discuss the importance of promoting religious freedom and protecting the rights of all in the country, a message he also underscored through public outreach events.

Representatives of the embassy, consulate general, and consulate spoke publicly about the importance of religious tolerance and protecting minorities from acts of violence. Embassy staff at all levels met frequently with religious leaders, representatives of social organizations, and human rights advocates to clarify U.S. policy in support of religious freedom, discuss religious tolerance, and promote respect for religion. Embassy and consulate officials also met with members of minority religious groups who were victims of religious intolerance.

The United States-Indonesia Society, a nonprofit organization endorsed by the U.S. and Indonesian governments, collaborated with Indonesian and U.S. religious leaders to launch the Indonesia-U.S. Council on Religion and Pluralism in Yogyakarta on August 10-11. The nongovernmental council convened a diverse group of experts, academics, and religious and civil society leaders to promote interfaith dialogue, pluralism, and tolerance, and to combat violent extremism in both countries.

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The embassy held numerous events at its cultural center venues that directly and indirectly supported religious freedom. For example, the embassy sponsored a series designed for local audiences to hear directly from prominent local Muslims about their experiences in the United States. An August event in the series focused on the 2016 presidential election and discussed its relation to religious freedom. An Indonesian American imam and a local representative of the Center for Strategic and International Studies discussed the inclusion and involvement of the U.S. Muslim community in the presidential election, and broader themes of fundamental American values such as freedom of religion. Two local TV stations and three print media outlets covered the event.

Embassy and consulate staff appeared on a number of nationally televised programs to discuss themes related to religious tolerance and diversity. Previous participants in U.S. government-funded student exchange programs appeared with embassy and consulate officials to provide accounts of their experiences in the United States including religious tolerance. Embassy and consulate personnel also led discussions and gave presentations at venues throughout the country, conveying the importance of diversity and religious tolerance to thousands of high school, Islamic boarding school, and university students. Collectively, these outreach activities carried messages of religious tolerance and religious freedom to tens of millions of viewers.

During Ramadan, embassy and consulate staff held numerous events and outreach activities that promoted religious tolerance. The embassy again sponsored a team of reporters who visited the United States to create news and documentary stories on topics that included U.S. religious life. The stories were again featured as part of the *Muslim Travelers* reality show during Ramadan and received an award in 2015 from the Indonesian Broadcasters Association for Best Ramadan Program. *Muslim Travelers* videos can be viewed on the embassy's YouTube page. The embassy hosted iftars to advocate for tolerance and pluralism through remarks and discussions to a wide cross section of society, including political figures, civil society representatives, and students.

Embassy and consulate staff conducted extensive print, TV, and digital outreach, including the Ambassador's Ramadan and Eid al-Fitr greeting videos and other religious pluralism initiatives that reached millions of individuals throughout the country. The embassy continued to manage a regular English language-learning column titled "Miss Understanding" on Facebook that aimed to promote religious freedom, diversity, and pluralism. The embassy, consulate general, and consulate also sponsored study exchanges and other civil society programs focusing on

religious pluralism and tolerance, including programs for rising leaders and scholars.

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## **EXHIBIT L**



## MAY 10, 2017 6:00AM EDT

# Indonesia's Courts Have Opened the Door to Fear and Religious Extremism

By Jailing Ahok for Blasphemy, Judges Have Sent a Chilling Message

### Published in The Guardian



## Andreas Harsono

Indonesia Researcher andreasharsono

The Jakarta court that sentenced governor Basuki "Ahok" Purnama to two years' imprisonment for blasphemy against Islam has sent a chilling message to non-Muslims in Indonesia. How could religious freedom slowly decline in <u>Indonesia</u>? And how could political Islam shape the country?

Ahok, himself a Christian, is the biggest political figure to be victimised under the blasphemy law. He is not only the Jakarta governor, backed by Indonesia's



Governor Basuki "Ahok" Purnama after the sentencing in his blasphemy trial in Jakarta on May 9, 2017.

© 2017 Reuters

biggest political party, but he's also an ally of President Joko "Jokowi" Widodo. Ahok and Jokowi were the dream team: Jokowi with vision, Ahok doing daily management.

Abok's imprisonment is a big blow for the president. He too might expect to be called infidel, kafir – a term used by Islamists to describe their fellow Muslim opponents.

Indonesia's transition from dictatorship to democracy has created space for more freedom of expression for all Indonesians, including Islamists. Emboldened by the government's inaction on discrimination and violence against religious minorities, over the last 19 years Islamists have increasingly sought to enforce laws like the blasphemy law more strictly to "protect" <u>Islam</u> and move Indonesia from a secular to an Islamic state.

Indonesia's 1945 constitution guarantees freedom of religion. But in January 1965, then-President Sukarno issued a presidential decree that prohibited individuals from being hostile toward other religions. Sukarno decreed that Indonesia was to protect six religions: Islam, Protestantism, Catholicism, Buddhism, Hinduism and Confucianism. Sukarno never used that law. He lost power in October 1965.

General Suharto, who ruled Indonesia from 1965 to 1998, used the blasphemy law only a handful of times. Three of his successors – B.J. Habibie, Abdurrahman Wahid and Megawati Sukarnoputri – never used it.

The law only became an issue when Susilo Bambang Yudhoyono succeeded Megawati in 2004. Yudhoyono strengthened the blasphemy law offices, which were under the Attorney

The verdict paints a frightening future for moderate Muslims and non-Muslims who believe in Indonesia's pluralist society.

General's Office, by creating branches in every province and regency. He also took no action against emerging Islamist militant groups that engage in threats and violence against religious minorities. During his decade in power, Yudhoyono's administration sent at least 106 blasphemy cases to courts – and all were found guilty.

In March 2006, Yudhoyono decreed a "<u>religious harmony</u>" regulation and set up government advisory bodies, skillfully named the Religious Harmony Forum, in every province and regency. The forum's credo says, "The majority should protect the minorities and the minorities should respect the majority." But it basically denies equal rights to Indonesian citizens. In many Muslim-majority areas, the credo allows Muslims to have effective veto power over the activities of religious minorities. More than 1,000 churches were closed down in that decade.

In 2014, Jokowi succeeded Yudhoyono. Many opinion makers and moderate Muslim leaders advised Jokowi to undo the discriminatory infrastructure he had inherited from Yudhoyono.

Unfortunately, Jokowi declined to take those steps. He instead sought to foster better ties with moderate Muslim groups such as the nationwide Nahdlatul Ulama in the hope that it would strengthen his hand with the hardline Islamist groups. He clearly miscalculated.

The Ahok verdict endorsed an Islamist narrative of blasphemy. One of the five judges, reciting the Qur'an's Al-Maidah 51 verse in Arabic, stressed that Muslims should not elect non-Muslim leaders. The court also adopted the Islamist's position that non-Muslims should not comment on Qur'anic interpretations.

The verdict paints a frightening future for moderate Muslims and non-Muslims who believe in Indonesia's pluralist society. Non-Muslims will think twice before making comments in public or on social media about diversity and pluralism. Beyond elected officials, public servants and executives of state-owned companies may be next in line.

Will it be OK to talk about opening a food vendor during the Ramadan fasting month? Will it be lawful to discuss mandatory wearing of the hijab? Non-Muslims might risk prison time just by venturing into these very ordinary subjects of Indonesian life.

If someone powerful and once popular like Ahok could be jailed for blasphemy, who is next?

## **Region / Country**

- Asia
- Indonesia

## Topic

Religious Freedom

## **More Reading**



May 9, 2017 Dispatches

## Indonesia Sends Jakarta Governor to Prison for Blasphemy

• May 14, 2014 Commentary

## Undoing Yudhoyono's Sectarian Legacy

Source URL: https://www.hrw.org/news/2017/05/10/indonesias-courts-have-opened-door-fear-and-religious-extremism

### Links

[1] https://www.hrw.org/view-mode/modal/303513

 $\cite{21} https://www.theguardian.com/world/indonesia$ 

[3] https://www.theguardian.com/world/islam

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[5] https://twitter.com/intent/tweet?text=Indonesia%E2%80%99s%20Courts%20Have%20Opened%20the%20Door%20to%

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## Indonesia's Courts Have Opened the Door to Fear and Religious Extremism Case 1:17-cv-11842-PBS Document 4-1 Filed 09/25/17 Page 102 of 105

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[8] mailto:?subject=Indonesia%E2%80%99s%20Courts%20Have%20Opened%20the%20Door%20to%20Fear%20and% 20Religious%20Extremism&body=https%3A//www.hrw.org/news/2017/05/10/indonesias-courts-have-opened-door-fearand-religious-extremism

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[10] https://plus.google.com/share?url=https%3A//www.hrw.org/news/2017/05/10/indonesias-courts-have-opened-door-fearand-religious-extremism

[11] http://reddit.com/submit?url=https://www.hrw.org/news/2017/05/10/indonesias-courts-have-opened-door-fear-and-

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## **EXHIBIT M**

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Home > Indonesia's Illiberal Turn

Friday, May 26, 2017 Indonesia's Illiberal Turn After the Ahok Case Sidney Jones

SIDNEY JONES is Director of the Institute for Policy Analysis of Conflict in Jakarta.

Indonesia is still reeling from a divisive election in April, in which hard-line Islamists forced the indictment on blasphemy charges, and eventual imprisonment, of the sitting governor of Jakarta, a Christian of Chinese descent named Basuki Tjahaja Purnama (better known as "Ahok"). The trial and conviction of Ahok have generated fears that the country's social fabric is fraying, that sectarianism is on the rise, and that Indonesia's democratic institutions are too weak to withstand a concerted assault from Islamists. The country <u>once praised</u> [1] by former U.S. President Barack Obama as a model of tolerance, pluralism, and democracy is now facing challenges to all three.

Despite such tensions, Indonesians remain overwhelmingly committed to democracy—some 70 percent believe it is the <u>best system for their country</u> [2]—and the country is a rock of stability in Southeast Asia. There is little danger of Indonesia turning into an Islamic state. The real worry is that unscrupulous politicians have realized that playing the religious card can win them elections. They will surely try to use it again in the race for the presidency in 2019.

## SPEAK NO EVIL

The election in Jakarta, which took place over two rounds in February and April, initially pitted Ahok against two Muslim candidates. One, Agus Harimurti Yudhoyono, was the son of former President Susilo Bambang Yudhoyono and a political neophyte who had just resigned from the military. The other, Anies Baswedan, was a noted educator backed by Prabowo Subianto. Prabowo, the scion of an influential political family, a retired army general with a controversial human rights record, and the son-in-law of Indonesia's second president, Suharto, had lost the 2014 presidential election to an ally of Ahok, Joko Widodo, popularly known as "Jokowi."

The trouble started in September 2016 when Ahok urged a group of civil servants to vote their conscience and not be fooled by anyone using a verse of the Koran to suggest that non-Muslims could not

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Source URL: https://www.foreignaffairs.com/articles/indonesia/2017-05-26/indonesias-illiberal-turn

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[1] http://www.washingtonpost.com/wp-dyn/content/article/2010/11/09/AR2010110906579.html
[2] http://www.wahidfoundation.org/index.php/news/detail/Most-Indonesians-Reject-Radicalism-Wahid-Foundation-Survey

## UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

LIA DEVITRI, EVA GRASJE, SYANE KALOH, JOHN LONDA, MELDY LUMANGKUN, MARTIN LUMINGKEWAS, MEIVE LUMINGKEWAS, TERRY ROMBOT, AGUS SETIAWAN, FREDDY SOMBAH, POPPY SOMBAH, and all other individuals similarly situated,	
Petitioners/Plaintiffs,	Civil Action No.
v.	
CHRIS M. CRONEN Boston Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement	
TIMOTHY STEVENS Manchester Sub-Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement	
ELAINE C. DUKE Acting Secretary of the U.S. Department of Homeland Security	
Respondents/Defendants.	

## AFFIDAVIT OF WILLIAM P. JOYCE, ESQ.

- I, William P. Joyce, under oath, depose and say as follows:
  - I am an adult resident of Massachusetts and make this affidavit based upon my own knowledge. This Affidavit is made in support of Petitioners'/Plaintiffs' Motions for Temporary Restraining Order, Preliminary Injunction, and Stay of Removal. I have personal knowledge of the facts set forth in this Affidavit, and would be competent to testify thereto.
  - I am a retired Immigration Judge and former Legal Counsel to the Chief Immigration Judge within the U.S. Department of Justice, Executive Office of Immigration Review. I currently serve as Managing Director of Joyce and Associates, an immigration law firm

located in Boston and Hyannis, Massachusetts. My practice includes representing individuals in their applications for political asylum, withholding of removal, protection under the Convention Against Torture ("CAT"), and other forms of relief from removal.

- 3. I presently serve as counsel to Petitioners/Plaintiffs Freddy and Poppy Sombah, who were participants in Operation Indonesian Surrender.
- 4. While I have only begun my representation of the Sombahs and several other Indonesian Christians recently, it is clear to me from the record that apparent cessation of Operation Indonesian Surrender has violated the due process rights of those Indonesian Christian nationals who had voluntarily participated and identified themselves to ICE.
- 5. ICE's timeline for removal is more expedited than is reasonable for individuals like the Sombahs, who have no criminal record, pose no national security threat, have an adult son in the United States who was granted relief through Deferred Action for Childhood Arrivals (DACA), and are actively engaged in their faith community. The timeline is wholly inappropriate – and violative of due process rights – for individuals whom ICE is aware would have valid claims to reopen their immigration cases.
- By way of this extreme expedition, the Sombahs received their Denial of Stay of Removal on September 18, 2017, and were ordered to report to the Manchester Sub-Office on September 25, 2017, with a plane ticket to depart to Indonesia on September 27, 2017.
- 7. There is no possible way that a motion to reopen could reasonably be prepared and submitted on that timeline, and as such, their right to seek immigration relief to which they may be entitled will be extinguished if they are removed as planned.
- 8. Additionally, the ICE officer provided my client with a checklist which is highly specious, and has not been encountered by me previously despite my wide experience in

#### Case 1:17-cv-11842-PBS Document 4-2 Filed 09/25/17 Page 3 of 6

immigration law. *See* Exhibit 1. It was provided less than a week before my client's reporting date with ICE, and claims that certain materials – including materials to be obtained by foreign governments – must be obtained prior to his appointment at the risk of "further detention", or "criminal prosecution". I am aware of no authority by which failure to obtain a document from a foreign government within less than a week would subject a non-citizen to detention or "criminal prosecution". I am concerned that failure to obtain these newly-demanded items on the checklist may serve as a pretext to detain my client at his appointment.

- 9. During my years in immigration law, I have overseen, adjudged, and represented many individuals in preparing and filing motions to reopen denied applications for political asylum, withholding of removal, and CAT based upon changed conditions in their home country. These motions are frequently filed with the Immigration Judge or the Board of Immigration Appeals, an entity with the Executive Office for Immigration Review responsible for administrative appeals.
- 10. A motion to reopen based upon changed country conditions is extremely fact-dependent. This is because change is measured from the evidence present in the record on the date of the denial to the evidence presented with motion to reopen. Because these motions are generally adjudicated without hearings, it is extremely important to know and understand the evidence contained in the record so that persuasive and material evidence may be marshalled and proffered for the purposes of reopening.
- 11. The administrative record is not a public document. Obtaining administrative records for closed immigration cases is a cumbersome process. It typically requires the filing of a Freedom of Information Act Request with the Executive Office of Immigration Review. It can take months to obtain such documents.

- 12. Additionally, other facts, such as eligibility for immediate relative status (such as marriage to a U.S. citizen or a U.S. citizen child's attainment of the age of twenty-one), ineffective assistance of counsel, or extraordinary circumstances can also serve as bases for motions to reopen.
- Motions to reopen are also resource-intensive and can cost many thousands of dollars to prepare.
- 14. The Indonesian Christian participants in Operation Indonesian Surrender, several of whom have now become clients of my firm, fear persecution in their home country on account of their religion. These fears are motivated by the conditions in Indonesia for members of the Christian faith. Reports on these conditions, and the increasing dangers facing Indonesian Christians, have been written by United States governmental agencies, non-governmental organizations, and experts since the early 2000s. It is my understanding that these conditions continue to worsen. An application based on such conditions would likely be meritoriously advanced if properly supported for an appropriate client.
- 15. By effectively blocking the participants in Operation Indonesian Surrender from their opportunity to submit such facts, ICE has violated their due process rights, and their removal should be stayed until such time as their claims can be properly adjudicated.

Signed under the pains and penalties of perjury this 24th day of September, 2017.

<u>/s/ William P. Joyce</u> William P. Joyce, Esq.

## **EXHIBIT 1**

## INSTRUCTION SHEET TO DETAINEE REGARDING REQUIREMENT TO ASSIST IN REMOVAL

The following is a list of things you are required to complete within 30 days of receiving this form, in order comply with your obligation to assist in obtaining a travel document:

<u>Mandatory requirements will be checked off by the ICE officer depending on the facts of each</u> <u>case</u>. Failure to comply or provide sufficient evidence of your inability to comply, may result in the extension of the removal period and subject you to further detention. In addition, you may be subject to criminal prosecution. If you need assistance in complying with any of the requirements, please contact a Deportation Officer.

- Submit passports (current and expired) to ICE. If you have a copy of your passport, you are to submit it.
- Apply for a travel document/passport from your embassy or consulate, or directly from your government in your native country, or any other embassy or consulate of your native country in another country.
- Comply with all instructions from all embassies or consulates requiring completion of documentation for issuance of a travel document.
- Submit to ICE birth certificates, national identification cards, and any other document issued by a foreign government indicating your citizenship, nationality, place of birth, and place of residence prior to entering the United States.
- Provide names and addresses of family and friends residing in the United States and request that they contact your embassy or consulate in the United States, in order to facilitate the issuance of a travel document.
- Provide names and addresses of family and friends residing in your country of citizenship and request family and friends residing abroad contact your government in reference to issuing a travel document.
- You are required to take measures to request reinstatement of your previous nationality, register as required, or take any other action that will ensure the issuance of a travel document and your removal from the United States.
- Provide ICE with written copies of requests to embassies or consulates requesting issuance of a travel document.
- Provide ICE with written copies of responses from embassies or consulates regarding your requests.
- Solicit permission from another country, which may be able to accept you, to enter that country to affect your removal from the United States.
- ☑ Provide your true and correct name and date of birth and any other identities you have ever used.
- Other:

Alien's Sig	nature		A Number	
Served by_	Mahoney Daniel	on	at	
	Officer's Name	Da	te	Location

To be served with I-229 (a) no later than 30 days after the final order

## UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

LIA DEVITRI, EVA GRASJE, SYANE KALOH, JOHN LONDA, MELDY LUMANGKUN, MARTIN LUMINGKEWAS, MEIVE LUMINGKEWAS, TERRY ROMBOT, AGUS SETIAWAN, FREDDY SOMBAH, POPPY SOMBAH, and all other individuals similarly situated,	
Petitioners/Plaintiffs,	Civil Action No.
v.	
CHRIS M. CRONEN Boston Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement TIMOTHY STEVENS Manchester Sub-Office Director for Enforcement and Removal	
Operations, U.S. Immigration and Customs Enforcement	
ELAINE C. DUKE Acting Secretary of the U.S. Department of Homeland Security	

Respondents/Defendants.

## AFFIDAVIT OF REV. SANDRA PONTOH

I, Rev. Sandra Pontoh, under oath, depose and say as follows:

- I am an adult resident of New Hampshire and make this affidavit based upon my own knowledge. This Affidavit is made in support of Petitioners' Motions for Temporary Restraining Order, Preliminary Injunction, and Stay of Removal. I have personal knowledge of the facts in this Affidavit, and would be competent to testify thereto.
- I am currently the pastor at Maranatha Indonesian United Church of Christ in Madbury, New Hampshire, and am a leader among the Indonesian Christian Community in Southern New Hampshire and Massachusetts.
- Because of the extreme persecution of Christians in Indonesia in the late 1990s, many of my congregants are, in effect, religious refugees from Indonesia; many of my

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congregants come from Jakarta, one of the most dangerous areas for Christians in Indonesia. In Jakarta in the 1990s, many churches were burned and bombed, and many congregants arrived in the United States on visas that they overstayed in part because of their abject fear of the persecution, torture, or death in Indonesia due to their Christian faith, and have since had to live in an undocumented status since that time.

- 4. Members of my congregation were very fearful because of their undocumented status, especially because it impeded their ability to participate fully in their communities and their abilities to pursue education or work. Nevertheless, they continued to live out their Christian faith to the best of their ability, and we remain a tight-knit community.
- 5. In 2009 and 2010, I was approached by various government officials from, among other offices, the Immigration and Customs Enforcement, about potential options to help my congregants and fellow Indonesian Christians "come out of the shadows" by disclosing their identity to ICE. As explained to me by, among others, Manchester ICE Supervisor Timothy Stevens, a program called "Operation Indonesian Surrender" would allow members of my community without criminal records who had already been issued an order of removal to obtain a stay of deportation and employment authorization in exchange for their agreement to identify themselves and to be monitored by ICE. I understand this to be referred to as an Order of Supervision. At that time I was assured by ICE that they wanted to help my congregants.
- 6. In 2010 I advertised this program to my congregation. Many were fearful that it was a "trap" by immigration officials, but I relayed to them the message that ICE expressed to me – that they wanted to help the community – and eventually 100 individuals agreed to come forward.

- 7. Those individuals were approved for the program, and generally complied with their obligations to be monitored at the ICE Office at Manchester, New Hampshire, at regular intervals. My congregants were able to live productively under that program. We believed that our community was building a good relationship with ICE by demonstrating our responsible compliance with the terms of the program.
- 8. In 2011, their stays of removal were generally approved, and several additional individuals applied and were accepted into the program.
- 9. In early 2012, I unfortunately came to realize that fears about the program were not unfounded, because, at that time, community members were informed that unless they had U.S. citizen children, U.S. citizen spouses, or health issues, they would be deported.
- 10. In the first round of deportations, approximately 37 individuals were sent back to Indonesia. This was devastating to my community, and to those individuals who are now living in fear in Indonesia. That change was made without warning, and at the time we were assured that those with U.S. citizen children or spouses would not be deported.
- 11. Since that time, 69 individuals remain in the program and have continued to live without incident, abiding by the terms of the Orders of Supervision.
- 12. Now, on June 21, 2017, we requested a meeting with ICE Assistant Field Office Director Todd Thurlow and were advised that all of those 69 remaining community members, all of whom, to my knowledge, have U.S. citizen children, were very likely to be deported, with the exception of any who had impending surgeries or medical procedures. This was devastating, not only because of the fear that our congregants have, but also because they had not incurred the substantial expense (in the thousands of dollars) to pursue further immigration relief while they were participating in the program

because they reasonably relied on ICE's prior assurances that those with U.S. citizen children or spouses would not be removed.

- 13. I understand that many individuals are scheduled to meet with ICE in the last week in September, and the beginning of October for their normal check-ins, and will at that time be ordered removed to Indonesia shortly after those visits.
- 14. This is devastating to my community, because the brief time frame between when the individuals attend the monitoring appointments and they are deported is only a matter of weeks, and is not sufficient to permit them to prepare applications for immigration relief.
- 15. I am aware of two program participants who are required to report as soon as Monday, September 25, 2017, with deportation scheduled for September 27, 2017.
- 16. The program participants would substantially benefit from increased time before reporting in which they could pursue prepare their applications for immigration relief.

Signed under the pains and penalties of perjury this 22<sup>nd</sup> day of September, 2017.

Sandmontoh .....

Sandra Pontoh

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