

Joint Submission of Stakeholders on the UPR
On the Situation of Freedom of Religious and Belief Violation in Indonesia:
Case of Millah Abraham / Gafatar

I. INTRODUCTION

1. The report prepared and submitted by the SETARA Institute for Democracy and Peace, The Foundation of Legal Aid Institutions (YLBHI), Human Rights Working Group (HRWG) Indonesia.
2. On the issue of freedom of thought, conscience and religion there were at least 15 recommendations accepted by the Indonesian government and must be reported on the 2017 UPR, especially in the issue of freedom thought, consciences, and religion.

II. FREEDOM OF TOUGHT, CONCSIENCE AND RELIGION, AND GAFATAR CASE

3. Freedom of religion and belief is guaranteed in the 1945 Indonesian Constitution, Article 28E paragraphs 1, 2 and 3, stated (1). Meanwhile, the Law No.39/1999 on Human Rights, Article 22, paragraph 1, states that, “Everyone is free to embrace their religion and to worship according to his religion and belief”. With the same editorial also contained in the MPR Decree No. XVII.MPR.1998 on Human Rights, Article 13.
4. The Indonesian government is still not fully implementing freedom of religion/belief as stated in the Constitution and other lower regulations. For almost ten years, the minority group of the Millah Abraham have been experiencing serious human rights violation without any improvement, reclamation or protection guarantee. Starting from the small expulsion events in some areas in Indonesia during 2014, the arrests and imprisonment for blasphemy, and in many cases Government treating Millah Abraham/Gafatar as deviant sect and discriminated them, also did not do anything in the recent current violence and massive expulsion on 19th January 2016 toward Gafatar followers, consist of 2371 families with 8187 people of ex-Gafatar followers from the Borneo/Kalimantan Island.
5. Government of Indonesia continued discriminative policies, especially to charging some spritual leaders of Gafatar with blasphemy law. on 25th May 2016, three leaders of the Millah Abraham (Ahmad Mushaddeq, Mahful Muis Tumanurung and Andry Cahya) were charged for blasphemy and treason by the Indonesian National Police. Furthemore, On 29th February 2016, based on the Law No.1/PNPS/1965, the Indonesian government issued a 3 Ministers Joint Decree (Minister of Religious Affairs, Ministry of Internal Affairs and the General Attorney) that prohibits the practice and spread of the Millah Abraham/Gafatar.

III. RESPONSE TO THE 2ND CYCLE OF INDONESIAN UPR RECOMMENDATIONS

- A. Response to the recommendations Para.: 108.97, 108.102, 108. 111, 108.113, 108.139; 108.98, 108.99, 108.103, 108.104, 108.112; and 109.31**

6. Since 2001, the minority group of Millah Abraham has been experiencing various human rights violations, both with its early name of Al-Qiyadah to Gafatar and the latest as a farming community “*Negeri Karunia Tuhan Semesta Alam/The Miracle of God*”. To this date, the problem has never been resolved by the State.

7. In Indonesia, the government holds full rights in determining a person's religion/belief. Any religion/belief outside the 6 recognized religions (Islam, Protestantism, Catholicism, Buddhism, Hinduism and Confucianism) is considered as heretical. This classifies the Millah Abraham as a heretical belief and is even considered as tarnishing the mainstream religions. For this reason, Ahmad Mushaddeq was convicted for violating Law No.1/PNPS/1965 on charges of blasphemy in 2007, the three leaders of the Millah Abraham were arrested for violating the same law and the 3 Ministers Joint Decree was issued to prohibit the spread of the Millah Abraham/Gafatar teachings.

8. The apostasy against the Gafatar organization and/or belief Millah Abraham is massively conducted by the religious organizations in Indonesia, it has occurred both at the central and local levels, such as the issuance of MUI fatwa No.6/2016 stating that Millah Abraham/Gafatar is misguided and misleading; Fatwa Aceh Ulama Consultative Assembly No.1/2015, the MUI Fatwa Malut No:A-12/MUI-Malut/XXXI/ III /2015, and the MUI Fatwa Kalbar No:01/MUIKalbar/I/2016.

9. Instead of protecting the rights to freedom of religion and belief of its citizens as stated in the Constitution and other relevant laws, on 29th February 2016 the Government further ignored the laws by issuing the 3 Ministerial Joint Decree (the Minister of Religion No.93/2016, the General Attorney No.KEP-043 /A/JA/02/2016 and the Minister of Internal Affairs N0.223-865/2016) prohibiting the Millah Abraham/Gafatar to deploy, interpret, and conduct any activities that deviate from the teachings of Islam mainstream and declared it as heretical and reflecting a system of syncretism, a combination of Judaism, Islam and Christianity.

Criminalization of the Minority Group of the Millah Abraham/Gafatar

10. The chronology of the Millah Abraham followers that have been criminalized on charges of violation article 156a of the Criminal Code in conjunction with Law No. 1/ PNPS/1965 during the period of 2007-2016 are:

- a. In 2007, Ahmad Mushaddeq indicted by the Supreme Court of South Jakarta District and imprisoned for four years.
- b. In 2008, the Padang District Court sentenced 2 Al-Qiyadah Al-Islamiyah/Millah Abraham followers to three years imprisonment.
- c. June 2008, the Makassar District Supreme Court convicted 21 Al-Qiyadah Al-Islamiyah /Millah Abraham followers.
- d. In 2015, 6 members of the Gafatar Aceh were sentenced to four years in prison by the Aceh Supreme Court.
- e. 25th May 2016, 3 leaders of the Millah Abraham; Ahmad Mushaddeq, Mahful Muis Tumanurung and Andry Cahya were arrested and are awaiting trial.

The Misuse of Article Treason Toward the Leaders of the Millah Abraham

11. Beside blasphemy, an additional charge of treason was given to the minority group of Millah Abraham/ex-Gafatar leaders. In the indictment, the prosecutor added Articles

107 and 110 of the Criminal Code regardless of the fact that no evidence suggests that the community has committed treason.

12. On 25th May 2016, the three Millah Abraham's leaders (Ahmad Mushaddeq, Mahful Muis Tumanurung and Andry Cahya) were arrested and detained. This arrest breached the arrest procedure. The summonses were as witnesses related to the blasphemy reports conducted by other individuals who do not have any connection with. After undergoing intensive interrogations for several days, on 25th May 2016, the three received summonses as suspects for violating 156a of the Criminal Code and an additional criminal offense of treason Article 107 and 110 of the Criminal Code. Despite all three being cooperative with investigators, they were immediately detained, with justifications of to avoid escape and the protection of evidence.

Rejection, Expulsion & Violence Against the Minority Group of the Millah Abraham

13. The most serious crimes experienced by the Millah Abraham/ex-Gafatar were the rejection, massive evictions and violence, which were allegedly driven by policy and even intervention from the Government. The issuance of several letters from the local governments to prohibit the organization activities lead to public vigilantism, resulting in the government and law enforcements being unable to guarantee the protection of this minority group. The chronologies of the incidents are as follows:

- a. In October 2014, the eviction of the Gafatar West Papua Council preceded by the Sorong Regency letter No: 220/144/2014 about the revocation of the Gafatar registration. Soon after, the MUI and FKUB released an ultimatum for the Gafatar to leave the Sorong region immediately within 1 week. On 26th October 2014, the Sorong Regency invited the public to reject and expel the Gafatar. On the same date, the MUI continued to implement their actions by persecuting 2 of the organization board members, beating them and seizing their computers. Finally, on 3 November 2014, 123 the Millah Abraham/Gafatar members were forced to leave Sorong, they were transited to Jakarta, following on to Central Kalimantan.
- b. In November 2014, the Gafatar East Nusa Tenggara Council also experienced rejection. The refusal started from the Bakesbangpol Kupang City with the issuance of the Regional Secretary of Kupang on monitoring the Gafatar activities, addressed to all the Head Districts and to the Lurah of Kupang City, published in the newspaper of the Timor Express, dated on 28th November 2014, titled "Beware of the Gafatar Organization". The Kesbangpol and East Sumba Linmas sent a letter No: BKBPPM.224/1334/B3/XI/2014 regarding the Gafatar's termination in the East Sumba. On 1st December 2014, 130 Gafatar members were evicted from the NTT, travelling to Surabaya for transit and following to Mendung village of the East Kalimantan in mid December 2014.
- c. In the beginning of January 2015, a mob raided the Gafatar secretariat offices in the Nanggroe Aceh and the Police detained several of the organization's boards. The rejection and arrests were linked to the issuance of the MPU Aceh's Fatwa No.1 of 2015, which stated that the Gafatar is heretical. The District Court convicted six of the Gafatar board members for blasphemy and sentenced them to four years imprisonment.
- d. In early January 2015, the Gafatar Bali Executive Regional Secretariat Board office was forced to shutdown. The reasons being that the organization was

unregistered and troubling the community. The closure based on the instruction letter from the Gianyar Regent of No: 220/0076/BKPL dated 12th January 2015, stated that the Gafatar was not listed in the ministry of Internal Affairs. On 22th February 2015, 105 Gafatar members left the island, transited in Surabaya and departed to the Central Kalimantan on 3rd March 2015.

- e. On 27th January 2015, the Gorontalo Regional Office located in the Kwandang Village received a brutal attack from the local citizens while conducting community service. Several Gafatar members were beaten with rocks, causing one of the member's front teeth to be dislodged. In addition to this, several local newspapers showed their strong rejection in their publications. Finally, on the 29th-31st January 2015, a total of 143 members left the Gorontalo, transited in Makassar until the 11th February 2015 and departed to Mendung Village of the East Kalimantan by sea craft on 11th February 2015.
- f. In January 2015, the Southeast Sulawesi Regional Office was expelled from the island. The eviction was based on the warning letter "Caution With the Gafatar Sect" from the Ministry of Religion of the MORA MORA Regional Office, No: KW.24 /BA.01.2/449/2015.
- g. In February 2015, the Gafatar North Sulawesi and West Nusa Tenggara Regional Offices also experienced rejections and expulsions from the government, forcing them to leave their towns heading to the East Kalimantan.
- h. In March 2015, the Gafatar North Maluku office was expelled by the MUI. The expulsion was based on the Fatwa from the Malut MUI which declared the Gafatar as a heretical cult No: A-12/MUI-Malut /XXXI/ III /2015. On 13th April 2015, all members left Maluku and went to Mendung Village of East Kalimantan.

14. The most significant expulsion and violence to the Millah Abraham group occurred on the 19th January 2016 in Kalimantan Island. Their settlements and agriculture lands in Mempawah – West Kalimantan were attacked and burned by a mob who claimed to be local residents. A few days afterward, the local Government systematically evicted 8187 members that lived in the East and West Kalimantan. Before they were returned to their homelands, the Government placed them in shelters for a several weeks. To date, their efforts in claiming the left behind assets remains complicated with some of their assets being claimed by other parties. Sadly, there has been no action from the Government in conducting investigations into the violent attacks, assaults and arson of the settlements and no assistance with the Millah Abraham member's regaining their assets.ⁱ

15. The evicted members have never received any compensations or support as promised by the Government. The heretical label given to the members isolates them from society. Some family members refused them to be returned to their hometowns. In addition, many of them are unable to obtain new National IDs from government regional offices. Without valid IDs it is difficult to handle anything requiring personal identification. Furthermore, one of the Millah Abraham/ex-Gafatar members in Trenggalek East Java, in his Police Check Record Certificate, it was written that he has been involved in criminal activity for formerly being a member of the Gafatar.

16. Post-repatriation, the Millah Abraham/ex-Gafatar members spread across provinces i.e Jakarta, West Java, Central Java, East Java, Lampung, South Sumatra, Riau Islands,

Riau, North Sumatra, South Sulawesi and some other areas in Indonesia, without rehabilitation, compensations, and fair trial of the violators.

Recommendations:

- a. Urging the Indonesian government to ensure the right to freedom of religion or belief, stop the criminalization of the followers of a particular religion/belief and to ensure protection for the religious/belief minorities such as the Millah Abraham.
- b. Repeal the blasphemy matter in the Act PNPS /1/1965 and 3 Ministerial Joint Decree about the Millah Abraham/Gafatar and to stop the criminalization of the leaders and/or adherents of the Millah Abraham/Ex-Gafatar.
- c. Withdraw the treason charge of Article 107 & 110 of the Criminal Code for the three leaders of Millah Abraham as it is an abuse of law to separate the leaders from its followers, which aims to eradicate teachings.
- d. To build a constructive dialogue between religions/beliefs to respect the differences in religions/beliefs, including in the interpretation of religious values or beliefs, guarantee the rights of its citizens to freedom of religion/beliefs and assembly.
- e. Release all citizens that have been sentenced to prison for having beliefs different from the mainstream and decessate the criminalization process that is still ongoing.
- f. Allowing the citizens to choose their place of residence, which guaranteed by the Indonesian 1945 Constitution, Article 28E (1), and to protect all members of the minority group the Millah Abraham/ex-Gafatar, by suspending the actions of eviction and violence against them
- g. Withdraw all laws at the central or regional levels that lead to discrimination against and intolerance toward the Millah Abraham/ex-Gafatar members.
- h. The Indonesian Government should facilitate the Millah Abraham/ex-Gafatar members to retrieve their left behind assets in Borneo/Kalimantan Island.

B. Response to the recommendation 108.103: The Prohibition To Activity, Opinion and Expression For the Millah Abraham/Gafatar

17. The distinct teachings of the Millah Abraham disturbed the mainstream religion. Hence, the government banned this community from perform any activities, expressing opinion and showing expression in their beliefs, such as speeches, lectures, sermons, inauguration, seminars, workshops and other activities, either verbally or in writing such as in the form of books, document organization, print and electronic media containing the teachings and intention for the deployment of the ideology. This prohibition stated on the first and second dictum of the 3 Ministerial Joint Decree for the Millah Abraham/Gafatar No. 93/2016.

C. Response to the recommendation 108.100: Coercion For the Millah Abraham Followers To Return To the Mainstream Religion

18. The Millah Abraham/ex-Gafatar community experienced coercion to return to mainstream religion. At the refugee shelters, the government obliged them to attend the

"Re-education Program". This program is written on the sixth dictum of the 3 Ministerial Joint Decree No.93/2016. Although the reason of the issuance was to maintain public tranquility, religion coercion violates the 1945 Constitution Article 28E, paragraph 1, 2 & 3 and Article 29 paragraph 2, as well as International Human Rights Law.

Recommendations:

- a. The government should provide the freedom of thought, freedom of expression and freedom of association, freedom of assembly for all the Millah Abraham/ex-Gafatar members, and eliminate all forms of coercion for its citizens to embrace a particular religion or belief..
- b. Eliminate the religion column on the National ID and all public administrations and/or recognizing all of religions or belief with the ID card.

D. Response to the recommendations: 108. 68, 108.103, 108.107, 108.108, 108.109: Discrimination, Hate Speech, No Investigation For the Perpetrators of the Crimes & Violence Against the Minority Group Millah Abraham

19. Discrimination faced by the Millah Abraham/ex-Gafatar community is obvious. Starting with the campaign of propaganda and violence against the community throughout Indonesia, peaking in Borneo, during the stay at shelters, to the absence of investigation of perpetrators of violence, arson, and the looting of assets of the community.

20. The data taking of the Millah Abraham/ex-Gafatar refugees at the shelters was not just ordinary documentation. It also extended to 'tagging' to identify members. Many of their National ID cards were specifically marked and confiscated by local authorities. Some of them also experienced difficulties obtaining new ID cards in their localities. This adds further difficulty to their struggle as it is difficult to manage life without ID cards. Furthermore, while many were staying at shelters, many of the refugees received the INAFIS (Indonesian Automatic Finger Print Identification Center) and children were no exception.

21. Although intolerance, discrimination, propaganda, and hate speech are prohibited in the Indonesian Criminal Code, various violation of these laws against the Millah Abraham followers continue and are ignored by the Indonesian Government. This can be seen from banners containing hate speech displayed in public, public demos fueled with proclamations of hate speech, speeches in public places containing hate speech provoking the mainstream, and defamation and hatred in print journalism and electronic media.

22. Furthermore, the Millah Abraham/ex-Gafatar started to experience various cases of impunities with acts of anarchy, such as beatings, expulsion, arson, destruction and the stealing of the Millah Abraham/ex-Gafatar members' assets. Incident after incident continued with no investigation conducted from law enforcement.

Recommendations:

- a. The Indonesian Government should delete the data in the INAFIS as affecting their criminal record. They are not criminals, thus they should not be treated as such. The data has been entered into the Government Criminal Database as offenders and can only have negative consequences.

- b. The Government should investigate the perpetrators of the violence, arson attacks and expulsions of the Millah Abraham/ex-Gafatar followers throughout Indonesia as it violated the 3 Ministerial Joint Decree No. 93/2016 on the fourth Dictum.
- c. Conduct investigations on the Mempawah incident that caused material loss, as well as emotional and psychological trauma to the minority group.

E. Response to the recommendations 108.72, 108.73: Violence in Women and Children of Minorities Group the Millah Abraham

23. Women and children of the Millah Abraham/ex-Gafatar groups received immense misery through acts of discrimination, intolerance and violence. The violations occurred during the expulsion and forced evacuations, at the transit places and shelters (number of women were 1,622 people and children under 18 yo were 3350 people). They were treated improperly and received violence by soldiers and police officers. Some were beaten, shouted, and treated inhumanly. Four women were recorded as having miscarriages during the forcibly evacuations, they are Sri Endawati, Wati, Nurhayati Aziz, Suratmi. In addition, the Millah Abraham/ex-Gafatar children were also victimized; many of them experienced mental & psychological traumas over the expulsion incidents.ⁱⁱ

24. At the shelters, some children were treated as criminals during the data taking. Their photographs and fingerprints were taken by INAFIS, a database system used for criminals.

Recommendations

- a. Government should restore the rights of women and children by removing the INAFIS profile database, as it would affect the criminal reference of the individuals.
- b. The government should prioritize procedural process in handling the evacuations. Hence, it should not contribute further negative outcomes to the victims, such as mental traumatization, and physical or material losses.

ⁱ The estimate loss; 724 Ha of land worth IDR 6,614,963,000.- 1,849 residential buildings with the estimate cost of IDR 11,427,802,857 agricultural production, animal husbandry and fishery of approximately IDR 4,555,885,633.- combined other material loss such as motorcycles, cars, machineries, household items and transportation fee approximately IDR 9,769,297,712.- The total loss approximately IDR 32, 122,049,202.- Most of these properties are unable to be claimed back by their owners as the local governments complicate the administrative procedures required to do so.

ⁱⁱ Legislation on the prohibition of violence against women and children is very clear. Unfortunately law enforcement officers were the perpetrators of violence against women and children of the Abraham Millah/ex-Gafatar.