

**AMNESTY INTERNATIONAL
PUBLIC STATEMENT**

Index: ASA 21/3787/2016
07 April 2016

Indonesia: Authorities must repeal Joint Ministerial Decree discriminating against minority belief

Amnesty International is extremely concerned about a joint ministerial decree that will stop the right of a religious minority in Indonesia to freely practise their religion and beliefs in utter disregard of Indonesia's international human rights obligations and protections in the Constitution.

On 29 February 2016, a Joint Ministerial Decree (No. 93/2016) was issued by the Minister of Religious Affairs, the Attorney General and the Minister of Home Affairs forbidding the 'Millah Abraham' religious belief, adhered to by former members of a religious organisation known as Gafatar (the Fajar Nusantara Movement). The authorities consider the belief 'heretic' because it intermixes the religious teachings of Islam, Christianity and Judaism.

The Joint Ministerial Decree is a deeply flawed piece of legislation that unlawfully interferes with the right to freedom of religion and belief and must therefore be repealed immediately. The decree would further marginalise this minority group and, further, risks inflaming the current atmosphere of intolerance and fear that has led to harassment, intimidation and attacks against members of the community.

Former members of the Gafatar community have previously faced attacks and imprisonment that stemmed solely from their religious beliefs. In January 2016, a mob attacked and set alight nine houses belonging to members of the community in Mempawah District, West Kalimantan. After the attacks, at least 2,000 people were forcibly moved by the local security forces to temporary shelters in Kubu Raya District and Pontianak City, West Kalimantan, and then transferred to several locations on Java Island without prior consultation.

In June 2015, six members of the Gafatar community in Aceh Province were convicted for "insulting religion" under Article 156 of the Criminal Code and sentenced to four years' imprisonment by the Banda Aceh District Court.

The right to freedom of religion and belief is guaranteed in Articles 28E and 28I of the Indonesian Constitution. Moreover, Article 18 of the International Convention on Civil and Political Rights (ICCPR), to which Indonesia is a state party, states that "this right shall include freedom to have or to adopt a religion or belief of his [or her] choice" and that "no one shall be subject to coercion which would impair his [or her] freedom to have or to adopt a religion or belief of his [or her] choice".

Article 18 of the ICCPR distinguishes the right to freedom of religion or belief from the freedom to manifest religion or belief. The freedom to have or adopt a religion or belief of one's choice is protected unconditionally by the Covenant and should be exercised without interference.

The International Covenant on Civil and Political Rights, however, recognizes that the exercise of the freedom to manifest one's religion or belief might be subjected to limitations only when prescribed by law and necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. The UN Human Rights Committee, the body that monitors compliance to the Covenant, has clarified that such limitations must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.

Failure to comply with the provisions set forth in the Joint Ministerial Decree would result in criminal prosecution for blasphemy under Presidential Decree No. 1/PNPS/1965 on the Prevention of "Religious Abuse and/or Defamation" and the Indonesian Criminal Code (KUHP).

Protection of abstract concepts or religious or other beliefs, or the religious sensibilities of their adherents, is not a permissible ground for restricting freedom of expression. Under Article 19(3) of the ICCPR, certain restrictions on the exercise of the right to freedom of expression may be permissible, including for the protection of public order, but only where such restrictions are provided by a precisely formulated law which complies with human rights, are demonstrably necessary and proportionate to the stipulated purpose, and do not put in jeopardy the right itself.

Amnesty International has previously called on the Indonesian authorities to repeal all provisions set out in laws and regulations which impose restrictions on the right to freedom of expression and thought, conscience and religion which go beyond those permitted under international human rights law, or amend such provisions to bring them into compliance with Indonesia's international human rights obligations.

Accordingly, rather than punishing people for their peaceful exercise of their freedom to hold a religion or belief, Indonesia should fulfil its obligation to ensure that all people under its jurisdiction can exercise their rights without fear or retaliation. The Indonesian authorities should take effective steps, including by ensuring adequate police protection, to ensure that members of religious minorities are protected and able to practice their faith free from fear, intimidation and attack.

Background

The Fajar Nusantara Movement (Gafatar) was founded in January 2012 with branches in 14 provinces. However, the organization was disbanded by its members in August 2015 after they were not able to get a registration permit from the Ministry of Home Affairs.

The Joint Ministerial Decree No. 93/2016 forbids ex-members or sympathisers of Gafatar to perform activities and to disseminate or interpret any teaching that deviates from the basic teaching of Islam. The Decree explains that Gafatar is the transformation of Al-Qiyadah Al-Islamiyah which was declared as a “heretic” organization by the Attorney General in November 2007 for promoting Millah Abraham religious teachings.

Furthermore, the Decree seeks “to warn and instruct members of the community to maintain and safeguard harmony among believers of different religions as well as unity in public order within a community by not engaging in violation of the law against the ex-members or sympathisers of Gafatar”.

In April 2008 Al-Qiyadah leader, Ahmed Moshadeq, was found guilty under Article 156(a) of the Indonesian Criminal Code (KUHP) and sentenced to four years’ imprisonment by the South Jakarta District Court for leading a “heretical sect” and claiming to be a prophet. In June 2008 the Makassar District Court in South Sulawesi convicted 21 members of Al-Qiyadah for blasphemy under Article 156(a) of the Criminal Code.