



# General Assembly

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Written statement\* submitted by Asian Legal Resource Centre, a non-governmental organization in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2019]

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\* Issued as received, in the language(s) of submission only.



## **INDONESIA: New Penal Code Bill must protect freedom of religion and belief**

The Asian Legal Resource Centre (ALRC) wishes to inform the UN Human Rights Council (UNHRC) about Indonesia's existing blasphemy law and the recurrent criminalization of persons belonging to minority religions under its article 156a, as well as article 326 of the New Penal Code Bill.

Article 156a of the Indonesian Penal Code (KUHP) constitutes a serious problem to freedom of religion and belief in Indonesia. The article posits that,

“By a maximum imprisonment of five years shall be punished any person who deliberately in public gives expression to feelings or commits an act. (a) which principally have the character of being at enmity with, abusing or staining a religion, adhered to Indonesia.”

Considering that the article does not have any clear parameters of ‘enmity’, ‘abuse’ or ‘stain’, it is very subjective, and hence vulnerable to misuse. A number of people have been charged and sentenced under article 156a: Lia Eden (of God's Kingdom sect), Tajul Muluk (Shia), Ahmad Musadeq (founder of Gafatar), Yusman Roy (multilingual prayer), Mangapin Sibuea (leader of the doomsday sect). The most recent case is that of Meliana, a Buddhist woman, who complained about the volume of the azan in Tanjung Balai, and that of Mr. Basuki Tjahaja Purnama, a former Jakarta governor.

The judgments sentencing defendants on charges of blasphemy are also interpreted by anti-tolerant groups in broad, negative ways. The judgments are used to prohibit issuing statements allegedly insulting Islam for instance, or the spreading of beliefs that could lead you astray.

According to national NGO KontraS, violations of freedom of religion and belief have always dominated civil and political rights abuse in the country. In the period 2014-2018 alone, there were at least 488 cases of violations against freedom of religion and belief, with the number of victims reaching 896.

The offenders in these cases of violations of the freedom of worship and belief, consist of civilians, mass organizations, and also law enforcement agencies and the government. The basic motives that dominate these cases are religion and politics. Religious motives are used by individuals and organizations in carrying out persecution efforts such as the prohibition of worship by minority groups including the Shia, Ahmadiyya and Gafatar, which leads to intimidation, sealing of places of worship, prohibiting religious activities, forced evictions, stigmatization and ill-treatment, as well as other forms of discrimination.

The subjective content of article 156a of the Penal Code is clearly in violation of Indonesia's obligations under various international human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR). It is therefore incomprehensible as to why the latest New Penal Code Bill issued on 28 May 2018 and 9 July 2018, continues to contain a provision regulating and punishing blasphemy.

Article 326 of the New Penal Code Bill states, "Everyone in public committing insults to the religion adopted in Indonesia is punished with a maximum imprisonment of 5 (five) years or a fine of at most Category V." The article makes it clear that there is no guarantee for freedom of religion and belief in the country. While the New Penal Code Bill does not use the word ‘blasphemy’, the provision has the same spirit, and its subjective interpretation will remain detrimental to minority groups.

The January 25 release of Mr. Basuki Tjahaja Purnama, former Jakarta governor who was sentenced to two-years imprisonment on blasphemy charges, is a good time for the Indonesian government to reflect on this issue of blasphemy and the freedom of religion and belief. Numerous people have been persecuted in the country due to the article on blasphemy, and unless it is removed from the New Penal Code Bill, many more will continue to be persecuted in the future.

Considering the above-mentioned condition of recurrent criminalization against persons of minority religion and belief under article 156a of the Penal Code, we respectfully request the Human Rights Council to:

Urge the Indonesian government and the Parliament, particularly the drafting committee to review and abolish the existing provision on humiliation (blasphemy) in the New Penal Code Bill.

1. Urge the Indonesian government to stop criminalization under article 156a of the Indonesian Penal Code.
  2. Urge the government to officially cooperate with and invite the UN Special Rapporteur on Freedom of Religion and Belief to visit and undertake study on the situation of freedom of religion and belief in Indonesia.
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