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# Religion-Based Conflict Resolution: A Critical Review on the Regulations of Social Conflict Management in Indonesia within Human Rights Protection's Framework.

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## Abstract

*Social conflicts could be caused by social, economic or political inequalities such as uneven distribution of power, political opportunities, natural resources, assets etc. But it could also be caused by the disparities in the recognition of different groups' identities such as traditions, cultures, languages, ethnicity, and religions. Due to some open-violence social conflicts happening in the past, at the national level, Indonesia issued Act No. 7/2012 and Government Regulation No. 2/2015 on Handling of Social Conflict. This article criticizes the regulations by examining the Government Mitigation Actions on Fajar Nusantara Movement (Gafatar) Case. Some years ago, Gafatar members came to Mempawah, West Kalimantan, from all over the country, built their own communities, and served their own daily needs by creating their own farming fields and lived exclusively within their own compounds. People who live in the surrounding area objected their habits and ways of life. According to local communities, their behavior and/or movement is considered as a heresy since the members of Gafatar tried to syncretize two biggest religions in Indonesia i.e. Islam and Christianity. With the goal of purifying their religion, the local community burnt down the Gafatar compounds. The Indonesian Government steps in by evacuating the members and sent them to their original hometown. At present, there are still problems concerning their remaining property (the land and goods) due to the conflict, i.e. who will own the right of the land and also who will return or take care of their motorcycles and household equipment left in Mempawah. Our findings show that Act No. 7/2012 and the Government Regulation No. 2/2015 on Handling of Social Conflict are not sufficient in settling the current problem. Both regulations may have articles managing the dispute by creating "peace" but do not really solve the whole conflicts. Some actions still need to be done, at least by amending the regulations to ensure the protection of human rights. All data are collected through literature study, in-depth interview as well as focus group discussion with the parties involved*

**Keywords:** social conflict, religion, post-conflict settlement, government role, Gafatar.

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## 1. INTRODUCTION

Indonesia is an archipelagic country extending 5,120 kilometers from east to west and 1,760 kilometers from north to south. Geographically, it lies on the equator, between Asia and Australia, as well as, between the Pacific and Indian Oceans. Various challenges and opportunities currently are faced by Indonesia, among others, uneven distribution of population, exploitation of natural resources, diversity of either ethnic, religion, customs or cultures that lead to the vulnerable potential social conflicts. As a very fertile and rich archipelago that stretches from Sabang to Merauke, Indonesia is not only overwhelmed with natural resources such as mining, natural gas, tropical forest, and flora-fauna, but also endowed with cultures, ethnicities, customs, languages and religions diversity. With a population of over 245 million people in 2018, Indonesia is the 4 (four) most populous country in the world.

There are 5 (five) major islands in Indonesia i.e. Sumatra, Java, Kalimantan, Sulawesi and Irian (Papua). The total population of Javanese is the largest, approximately 15.2 million people or 41 % of



still hold cults. The following table of population in Indonesia by religion was collected from the statistic data published by the National Statistic Bureau in 2016.

**Table1** Total Population by Religion in Indonesia<sup>5</sup>

NO	RELIGION	NUMBER	PERCENTAGE
1	Islam (Moslem)	207.176.162	87.18
2	Christian	16.528.513	6.955
3	Catholic	6.907.873	2.906
4	Hinduism	4.012.116	1.688
5	Buddhism	1.703.254	0.716
6	Confucianism	117.091	0.049
7	Other	299.617	0.126
8	No answer	896.700	0.377
	<b>TOTAL</b>	<b>237.641.326</b>	<b>100</b>

From the percentage shown in Table 1, Moslem population is the largest, it reach nearly 88% of the total population with over 200 million people<sup>6</sup>.

Being aware of this diversity, since the independence, the founding fathers chose the country motto of *Bhinneka Tunggal Ika*, which means Unity in Diversity. This motto is consciously chosen by the founding fathers in order to maintain national unity. However, in reality, the watch word believed to be a unity reflection is not always able to prevent conflicts in society.

The description of plurality mentioned above naturally puts Indonesia as one of the conflict-prone states. In reality, indeed, there were various types of conflicts happened in Indonesia. Some conflicts involved the state, such as the separatist movements happened in Aceh (long ago) and Papua. There were also conflicts due to lands caused by the seizure of natural resources. Since the era of regional autonomy, the elections of Head of Regions also often led to conflicts and violence in society. However, of the various conflicts occurred in Indonesia, the most conflicts occurred were horizontal conflicts caused by the issues of identity such as religions and ethnicity issues. Ichlasul Amal even stated that Indonesia's modern history is the history of conflicts<sup>7</sup>.

Inter-religion and inter-ethnic conflicts in Indonesia were ups and downs and even occurred in the days of the New Order regime under Suharto's authoritarian rule<sup>8</sup>. This conflict continued in transition period exactly after the fall of Suharto and the period after the reforms era. Granting autonomy to the regions after the reform also triggered many new conflicts which were regional in nature.

Actually, state has a very important role during conflict primarily to prevent loss of life and loss of property. Unfortunately, according to Mahfud MD, states are often powerless, or even by the activists, it is said that state is very often being absent in conflict situations<sup>9</sup>. When state is present, it usually comes with a repressive-militaristic way in order to stop and abolish existing conflicts. In fact, the critical point that must be presented before a conflict occurs in a plural society like Indonesia, is a mutual appreciation, understanding, tolerance and consideration. Such a condition would not likely be presented in the absence of adequate education about the nature of pluralism. A quality inter-cultural

<sup>5</sup> National Statistic Bureau, *Statistik Politik 2016*, (Sub Direktorat Statistik Politik dan Keamanan 2016), 170

<sup>6</sup> While the number of Moslem population is the highest and generally dominates the field of government and politics, in reality most of the economic life is dominated by the minority ethnic groups of Chinese who are mostly Christian and Catholic. This is one of the reasons considered as one of the main triggers of conflict in Indonesia.

<sup>7</sup> Ichlasul Amal in Bambang W. Soeharto, *Menangani Konflik di Indonesia*, (Jakarta: Kata Hasta Pusaka, 2013), xv

<sup>8</sup> The New Order regime under Suharto administration gives priority to economic growth. For this purpose, the depoliticization of society and authoritarianism deemed necessary. The presence of opposing ideologies (including Islam) and some political parties (including the Islamic parties) were seen as obstacles to development. Pancasila, the basis of the state, was propagated as the only ideology and 'single principle' for political parties in Indonesia. Although they suppressed all forms of Islamic expression, the New Order government really gave support to the implementation of pure worship aspects. Many mosques were built with the help of government, rapidly growing Islamic religious education, religious holidays were celebrated with government support, even Musabaqah Tilawatil Quran (MTQ) was sponsored by the government, see Matin van Bruinessen, *Rakyat Kecil, Islam dan Politik*, (Yogyakarta: Gading Publishing, 2013), 241.

<sup>9</sup> Amal, *Menangani Konflik di Indonesia*, xi

dialogue becomes an important part in order to maintain a favorable climate, peace and harmony in society.

It is indeed difficult to understand and explain a phenomenon of a social, ethnic, and religious-based conflict in Indonesia and elsewhere. In the history of Indonesia or other countries, various ethnic or religious-based conflicts are often caused by mixed interests. Thus, both ethnic and religious-based conflicts are not only caused by differences in identity, but also by other issues such as power, political and economic issues.

The pure religious-based conflict is mainly caused by an absolute truth claim of a religion. To fight for this 'truth argument', violence is then justified when needed. A 'religious postulates', could even drive and strengthen the wave creating the space for dissent. Ironically, a Jewish rabbi named Jonathan Sacks quotes Blaise Pascal, stating that 'Men never do evil so completely and cheerfully as when they do it from religious conviction'. In his bestseller book title 'Not in God's Name: Confronting Religious Violence' he further stated: "... too often in the history of religion, people have killed in the name of God of life, wage war in the name of the God of peace, hated in the name of the God of love and practised cruelty in the name of the God of compassion..."<sup>10</sup>

In addition, when it comes to an open conflict, the religious-based conflict is often combined with other factors depending on the socio, cultural, and political context. In her paper describing ethnic-based conflicts occurring in Bosnia-Herzegovina, Blagojevic says that the danger of attempting to develop a comprehensive approach for understanding a phenomenon of a conflict that manifests in various contexts across the globe is simply the one of trying to do "too much." She says that the conflict occurs when a certain set of factors and conditions converge: a major structural crisis; presence of historical memories of inter-ethnic grievances; institutional factors that promote ethnic intolerance; manipulation of historical memories by political entrepreneurs to evoke emotions such as fear, resentment, and hate toward the "other" and an inter-ethnic competition over resources and rights. Further she says that each conflict has its own unique characteristics and in different contexts, and according to her, some of them are common denominators necessary for ethnic conflicts to occur.<sup>11</sup> With a different approach, Shapiro mentions that our beliefs, perceptions, values, needs and feelings are inescapable parts of every conflict in which we are involved.<sup>12</sup> The conflict, therefore, could be caused by social, economic or political inequalities such as uneven distribution of power, political opportunities, natural resources, assets etc., but also could be caused by the disparities in the recognition of different groups' identities such as traditions, cultures, languages, ethnicity, and religions. Generally, social conflicts in Indonesia occur because of the combination of various interests. It is common that some parties attempt to exploit the issue of identity differences, especially religious issues, to achieve a certain goal or even a particular position. According to Simonsen, ethnic and religion identities are dynamics both in their salience and in their character. Important opportunities for peace-building may be lost if intervening actors fail to acknowledge the dynamic nature of ethnicity and religion<sup>13</sup>, especially in the situation where social conflict occurs.

Peace-building is also difficult to define and even more difficult to achieve in practice. According to Lambourne, post-conflict peace-building is a strategy designed to promote a secure and stable lasting peace in which the basic human needs of the population are met and violent conflicts do not recur". This definition takes a long-term focus and incorporates the goals of both negative peace (absence of physical violence) and positive peace (absence of structural violence), a distinction first outlined by Galtung.<sup>14</sup> People have different priorities in relation to reconciliation. For some people an apology is a critical first step, while for others forgiveness and even reconciliation may be possible without such acknowledgement of the harm perpetrated. Whether or not justice is required for

<sup>10</sup> Jonathan Sacks, "Not in God's Name: Confronting Religious Violence", (London: Hodder & Stoughton Ltd., 2015), 3

<sup>11</sup> Bojana Blagojevic, "Causes of Ethnic Conflict: A Conceptual Framework," *Journal of Global Change and Governance*, Volume III, no. 3 (Winter 2009): 1-25.

<sup>12</sup> Daniel Shapiro, *Conflict and Communication: a Guide through the Labyrinth of Conflict Management* (USA: IDEA Press, 1971), 9.

<sup>13</sup> Even Gunnar Simonsen, *Addressing Ethnic Divisions in Post-Conflict Institution-Building: Lessons from Recent Cases*, Security Dialogue Vol. 36, No. 3 September 2005 (Norway: International Peace Research Institute, Oslo (PRIO), 2005), 297

<sup>14</sup> Wendy Lambourne, *Post-Conflict Peace-Building: Meeting Human Needs for Justice and Reconciliation*, *Journal of Peace, Conflict and Development – Issue Four* (April 2004): 3

reconciliation is a matter of some debate, and different people will regard different types of justice as more relevant for reconciliation. An undertaking to avoid the harmful acts of the past and build a new relationship built on trust and respect is another step which is normally seen as essential to the reconciliation process<sup>15</sup>. Lambourne provides some meaning of reconciliation such as to be friends again after an estrangement; transformation of relationship; restoration of broken relationships to create community again; returning to peace, cooperation and harmony after a conflict; values the justice which restores community rather than justice which destroys it; and conflict resolution with more profound implications<sup>16</sup>. Therefore, reconciliation is fundamentally significant goals that need to be addressed in the design of successful post-conflict peace-building processes and mechanisms.

Gafatar conflict that becomes the focus of this paper happens because the concerns of the government and the public understanding are not in accordance with existing religious traditions in Indonesia. The leaders of this group are perceived as spreading misguided religious beliefs by confusing some of the main religious teachings of Islam, Christianity (and Judaism). To safeguard and foster religious tranquility and social order, the existence of Gafatar group is nationally prohibited by the Government. Some of the leaders of this group have even been sentenced for 'religious blasphemy' as stipulated in Article 156a of the Penal Code. To stop the activities of this group, especially the activities of the members residing in West Kalimantan Province as the center of their activities, the local community conducted the expulsion and burning of the entire housing compound inhabited by the members of Gafatar group. In addition, the Government prohibited this group from existence. The members of this group, which has indeed spread throughout Indonesia, were evacuated and relocated or returned to their hometowns.

Due to Indonesia's diversity, at the national level, the Government of Indonesia issued Act No. 7/2012 on Handling of Social Conflict and its implementing rules, i.e. Government Regulation No. 2/2015 on Handling of Social Conflict. Both of these rules are the basic guidelines for handling social conflicts both on the regional and national levels. During an open conflict, humanitarian principles are preferred mostly in order to eliminate and prevent the loss of lives, injuries, greater damage of property, protect public facilities, infrastructure and assure the sustainability of Government functions. While these measures should be prioritized, it must also be ensured that other rules in order to provide the protection of human rights should remain a reference.

In addition to the Constitution, several laws that specifically regulate the provision of human rights protection in Indonesia are Act No. 39/1999 on Human Rights, Act No. 26/2000 on Human Rights (Criminal) Court, Act No. 23/2002 jo. Act No. 35/2014 on Child Protection, Act No. 7/1984 on Ratification of the Convention on the Elimination of all forms of Discrimination against Women, Act No. 11/2005 on Ratification of International Covenant on Economic, Social and Cultural Rights and Act No. 12/2005 on Ratification of International Covenant on Civil and Political Rights, etc. One difficulty with these all acts is that the society, law enforcement or the Government often do not take them into account, especially when open social conflicts occur. When open conflicts happen, the Government's main priority mostly is to create social security and order by preventing casualties and injuries and minimizing the scale of damage to property and assets owned by victims, so that other human rights are often ignored. Such rights include the right to embrace a religion or belief and worship freely according to their religion or belief, the right to freely live and reside in a certain territory, and the right to security and protection from the threat of fear that are often overlooked in situations of the conflict management.

Particularly, Act No. 39/1999 on Human Rights states that human rights are fundamental rights which are naturally inherent in human beings; they are universal and permanent. Therefore, human rights must be protected, respected, retained, and should not be ignored, diminished or deprived by anyone. This law states that discrimination is any direct or indirect restriction, harassment or excommunication based on human distinction in religion, ethnicity, race, group, class, social status, economic status, gender, language, and political beliefs resulted in the reduction, deviation or abolition of the recognition, exercise or use of human rights and fundamental freedoms in individual and collective life in the political, economic, legal, social, cultural and other aspects of life. Furthermore,

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<sup>15</sup> *Ibid.*, 8

<sup>16</sup> *Ibid.*, 24

this law states that human rights violations are any acts of a person or group of people including the state apparatus whether they are intentional or unintentional or they are caused by negligence which unlawfully reduces, hinders, limits, and/or deprives a person's or a group of people's human rights guaranteed by this Law, so that people do not get, or there is the potential that they will not obtain a fair and just legal settlement under applicable legal mechanisms.

There are various dilemmatic issues that can be discussed regarding the treatment received by leaders and members of Gafatar group either by the Government or the community, either before, during or after conflict in the light of the human rights perspective. However, on the other hand, the authors should also appreciate the Government's handling of social conflicts involving the members of Gafatar group as the victims. The authors understand the seriousness of the Government to dampen the development of greater social conflicts associated with the development of this Gafatar group, not only in West Kalimantan Province, but also throughout Indonesia.

For that reason, in this paper the authors seek to see some weaknesses that exist in Act No. 7/2012 and the Government Regulation No. 2/2015 in relation to the real conditions of the post-Gafatar conflict handled by the Government in West Kalimantan Province in the context of the protection of human rights.

## 2. RESEARCH-METHODS

This paper is part of the first year research results conducted by the authors. The overall research is planned to last for 2 years; therefore the research is still underway. The main title of the study is The State Responsibility in the Implementation of Post Conflict Rehabilitation and Restitution between Religions in the Context of Human Rights Protection. The research was conducted in 3 (three) post-conflict sites based on religion, i.e. Ambon (Islam-Christianity conflict), Sampang, Madura (inter-religious conflict between Sunni and Shi'a) and Mempawah District (Gafatar conflict).

The primary data were collected by conducting observations or site visits to post-conflict sites, focus group discussions and in-depth interviews with law enforcement officials and Government staff responsible for the handling of social conflicts. In Ambon and Sampang, Madura, the authors also had the opportunity to conduct in-depth interviews with conflict victims. For the Gafatar case, the authors plan to interview the victims of the conflict during the second year of the research period as the victims no longer live in West Kalimantan Province during the 1st year research. The secondary data analyzed are various laws and regulations related to the handling of social conflicts, particularly those related to the rights of victims of conflict, since the main purpose of this study is to look at some of the weaknesses of Act No. 7/2012 and Government Regulation No. 2/2015. The research will be ended by providing recommendations for the Government to make changes or amendments to the weaknesses of the contents of both laws, including the addition of several articles that are deemed necessary.

## 3. THE HANDLING OF GAFATAR CONFLICT IN WEST KALIMANTAN

### 3.1 The Existence of Gafatar Group/Communities

Declared in 2011 by its leader Ahmad Musadeq, the Gafatar group was originally registered by the Ministry of Religious Affairs as a social organization that engages in social and community empowerment. In a short time, since its establishment, the organization has developed rapidly and spread not only in the island of Kalimantan (Borneo), but also throughout Indonesia. Unfortunately, Fajar Nusantara Movement (Gafatar) is a group considered by some Indonesian people as an exclusive group. Members of these groups come from different parts of Indonesia and live together in special locations separated from other communities with their own livelihood which is mainly farming. By the local Government, because it looked supportive of President Joko Widodo's Work Program, i.e. "National Food Security Program," the activities of this group were initially categorized as positive. Before declared as a forbidden organization in terms of their mission, members of this group tried to spread themselves throughout Indonesia. Having been declared a forbidden organization, the main domicile targets of these group members are remote areas in the island of Kalimantan, with its headquarter in Mempawah district, West Kalimantan Province as most of the members of this group are suspected to live in West Kalimantan Province. Since the prohibition of this group by the National Government in 2015, many former members of Gafatar have joined other members in West Kalimantan.

Although there is no exact data on the number of members of this group, from various sources we found that the number of Gafatar members has reached more than 10,000 people. For the number of Gafatar members in West Kalimantan, based on the data from the West Kalimantan Regional Police (POLDA), at least it reached nearly 6,000 people. These data are obtained only based on the number of Gafatar members evacuated and repatriated to their hometowns and families by the West Kalimantan Provincial Government, but their numbers are believed to be more than that.

In this province, although living apart from the community by creating a separate residential complex, the group attempted to blend in with the community by organizing several community activities. They did activities such as blood donor, works devoted to environmental hygiene, providing free IT tutorials and skills for the community and so on. When we were doing the research, the POLDA of West Kalimantan said that the group did those activities to attract the sympathy of the surrounding community. The group's ultimate goal according to them was actually to recruit the surrounding community into its members.

Particularly in Mempawah Regency, the local residents began to be suspicious of the existence of this group when knowing the community of Gafatar performed worship activities together at night with unusual voices. In addition to religious activities that are considered unusual, according to the Secretary of Kesbangpol-Linmas of West Kalimantan Province, they also found various documents indicating that Gafatar is an organization that would prepare itself to form a new state and/or the replace the ideology of the nation and the State. The police further said there are several stages or phases they prepared for the formation of the new state. It started from the phase of *Sirron* (secret), then the phase of *Jahron* (open), followed by the phase of *Hijrah* (moving), including war. The next step is the phase of *Futuh* (victory). Then they were going to form the desired state called *Madinah Munawwarah*<sup>17</sup> state. It is said that when their numbers reach 100,000 people, then they will fight and establish their own country of Gafatar state.

In another version found online on the Internet, it is stated that it will take 6 phases to establish the Gafatar state, namely the first phase is the *Sirron* or undercover *dakwah*; second, the *Jahron* phase, i.e. open *dakwah*; third, the exodus phase, i.e. the movement of the people from the initial domicile to the territory of the would be state location (in this case, West Kalimantan is believed to be the intended territory and the people are required to prepare the logistics while practicing the war); fourth, the *Qital* phase in which people fight against groups outside Gafatar, including the Republic of Indonesia (NKRI); fifth, the *Futuh* phase, which is the victory by forming a Gafatar system of government, i.e. Negeri Karunia Tuan Semesta Alam Nusantara; and lastly, the phase of *Madinatul Munawwaroh* or Glory<sup>18</sup>.

### 3.2 Prohibition and Dissolution of Gafatar Organization

Prior to being named Gafatar, by the Government, this group was suspected as a group called the Millah Abraham Community and Al-Qiyadah Al-Islamiah, banned by the Attorney General's Decree Number KEP-116/A/JA/11/2007 dated 9 November 2007 concerning Prohibition of Al-Qiyadah Al-Islamiah's Al-Qiyadah and Teaching Activities throughout Indonesia. The decision of the Attorney General is based on the Fatwa of Indonesian Ulema Council Number 04 Year 2007 about Al-Qiyadah Al-Islamiah Al-Qiyadah Al-Islamiah which is considered to cause social unrest for spreading religious activities that deviate from the main teachings of Islam. Previously, the prohibited group is Al-Qiyadah Al-Islamiah school, then in 2012 the Government issued a decision that Gafatar is a forbidden organization. The legality of the ban is enforced with the issuance of the Letter of the Directorate General of Human Rights of the Ministry of Home Affairs No. 220/3657/D/III/2012 dated 20 November 2012.

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<sup>17</sup>This can also be seen at <https://www.jpnn.com/news/ditemukan-dokumen-rencana-makar-dan-pendirian-negara-gafatar> as explained by Dayak Customary Council which rejected the existence of Gafatar in the home of Dayak Society, West Kalimantan, accessed 5 of August 2017. The researchers also find secondary data, i.e. a book containing Statutes and/or Manual Book of this group.

<sup>18</sup> See <https://m.kaskus.co.id/thread/56b4bb051a99751a6e8b4569/ditemukan-dokumen-gafatar-segera-mendirikan-negara>, accessed 5 of August 2017



In 2016, after the open conflict and evacuation of Gafatar group members to their respective regions, the Government again issued a Joint Decree (SKB) of the Minister of Religious Affairs of the Republic of Indonesia, the Attorney General of the Republic of Indonesia and the Minister of Home Affairs of the Republic of Indonesia Number 93/2016; Number KEP-043/A/JA/02/2016; and Number 223-865/2016 concerning Orders and Warnings to Executives, Former Members, Followers and/or Sympathizers of the Fajar Nusantara Movement Social Organization or in Other Forms to Stop the Spreading of Religious Activities that Deviates from the Basic Teachings of Islam.

Immediately after the issuance of the Joint Decree, the Joint Circular Letter (SE) of Secretary General of the Ministry of Religious Affairs, the Deputy Attorney General Intelligence, and the Director General of Politics and Government of the Ministry of Public Affairs of the Republic of Indonesia was issued<sup>19</sup>. The contents of the Joint Decree (JD) are principally: 1) to order, warn and prohibit former executives, former members, followers and/or sympathizers of the Fajar Nusantara Movement or other forms, to intentionally publicly recite, advocate or endorse public support to do interpretations of a religion embraced in Indonesia or perform religious activities that resemble religious activities of that religion, so that the interpretations and activities do not deviate from the religious teachings; 2) to order and warn former executives, former members, followers and/or sympathizers of Fajar Nusantara (Gafatar) social organizations or other organizations to stop the spread, interpretation and activities that deviate from the subjects of Islamic teachings; 3) to impose legal sanctions applicable to those who disregard the dictums 1 and 2 of the JD, including to its organizations and legal entities; 4) to order and warn all citizens to maintain the religious harmony, peace and order of community life by not committing acts and/or unlawful acts against former executives, former members, followers and/or sympathizers of Gerakan Fajar Nusantara (Gafatar) social organization; 5) to impose sanctions in accordance with the provisions of legislation to the citizens who disregard the warnings and orders according to the fourth dictum of the JD; and 6) to order the Government and Local Government apparatus to carry out the guidance steps in the framework of securing and supervising the implementation of JD.

The SE also ordered the Governor, Head of the High Prosecutor's Office, Head of Regional Office of the Ministry of Religious Affairs and Regents/Mayors to conduct socialization, guidance, safeguarding, supervision, and coordination. The SE also mentioned: 1) that the contents of the JD in accordance with the legislation and the content of the JD are not the Government's intervention of a person's beliefs, but the Government's efforts in accordance with the authority regulated by the Law to safeguard and nurture religious peace and social order disturbed by the conflict in society arising from the spread of distorted religious ideology; 2) in accordance with the first dictum of the JD, what is meant by recounting, advocating or seeking general support is any attempt, activity, or act of spreading by a person to another person, whether committed in a public place or a special place such as a mosque and other buildings; 3) in accordance with the 2nd dictum of the JD, (a) the intended legal subject in the JD is former members, followers and/or sympathizers of the Fajar Nusantara Movement (Gafatar) social organization or any other forms of dissemination of interpretations and deviant activities from the main points of the teachings of Islam, (b) the meaning of dissemination, interpretation and activities that deviate from the subjects of Islamic teachings is an activity that disseminates Abraham's ideology and beliefs and similar beliefs and beliefs which are misleading and misleading because of the combination between the teachings of Islam, Christianity, and Judaism by interpreting Qur'anic verses that are inconsistent with the method of interpretation. The acts or activities that are ordered to be terminated are deeds or activities such as speeches, lectures, sermons, recitations, recruitment, seminars, workshops and other activities, oral and written, in the form of books, organizational documents, print media, and electronic media containing cargo and intended for

<sup>19</sup>The Joint Circular Letter of Deputy Attorney General Intelligence and Director General of Politics and Governance General Ministry of Home Affairs of the Republic of Indonesia number are No. SE/SJ/06/2016; No. SE/B-264/D/ Dsp.2/03/2016; and Number 410/921/POLPUM concerning Guidelines for the Implementation of the Joint Decree of the Minister of Religious Affairs of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, Minister of Home Affairs of the Republic of Indonesia Number 93/2016; No. Kep-043/A/Ja/02/2016; and Number: 223 – 865, 2016 concerning Orders and Warnings to Executives, former Members, Followers and/or Sympathizers of the Fajar Nusantara Movement Social Organization or in Other Forms to Stop the Spreading of Religious Activities that Deviates from the Basic Teachings of Islam.

the dissemination of Abraham's ideals and beliefs and similar beliefs and beliefs; 4) in accordance with the 3rd dictum of JD, if the warnings and orders to stop the spreading of the deviant teachings as mentioned in the first dictum and the second dictum are not exercised, it is subject to sanctions related to the abuse and/or blasphemy of religion, as provided for in Article 1 in conjunction with Article 3 of Law Number 1/PnPs/1965 and/or Article 156a of the Criminal Code with the maximum sentence of five years of imprisonment. In addition, the social organization of Gafatar or such movements in any other forms are subject to sanctions in the form of dissolution of the organization and its legal entity through procedures in accordance with applicable laws and regulations; 5) according to the 4th dictum of the JD, the citizens are given warnings and orders not to commit any unlawful acts or actions against former members of Gafatar or such movements in any other forms, in order to protect former members of Gafatar including their property in order to maintain the harmony of religious life and tranquility and social order. This is to ensure that the public obeys the law by not engaging in anarchic actions such as sealing, vandalism, arson, and other unlawful acts; 6) according to the 5th dictum of the JD, the citizens who disregard all such orders and warnings by committing unlawful acts in the form of vigilante, acts of anarchy and arbitrary acts against former members of Gafatar may be subject to criminal sanctions in accordance with the law such as sanctions as provided in the Criminal Code Article 156 concerning the spread of hatred and hostility, Article 170 on acts of violence against persons or goods, Article 187 on burning, Article 351 on persecution, Article 335 on unpleasant deeds, Article 406 on the destruction of other goods, and other regulations; 7) in accordance with the 6th dictum of JD, in the framework of development, the local Government at both the provincial and district/municipality levels are asked to proactively hold meetings with former executives, former members, followers and/or sympathizers of the Gafatar to maintain and foster religious tranquility and social order and implement the applicable law in order to realize harmony and national unity.

In addition, in the Joint Circular Letter (JCL) it is also stated that guidance by the Government involves giving advice, direction or religious counseling and *dakwah* in order not to do deeds or activities such as speeches, lectures, sermons, lectures, recruitment, seminars, workshops, and other activities, oral and written, in the form of books, documents of the organization, print and electronic media containing and intended for the dissemination of Abraham's ideology and beliefs and similar beliefs which are misleading because of the confusion between the teachings of Islam, Christians, and Judaism by interpreting Qur'anic verses that are inconsistent with the exegesis. The JCL also instructs the Governor, Head of the High Prosecutor's Office, Head of Provincial Ministry of Religious Offices to provide protection to all citizens, encourage the community to understand, deepen and practice the correct teachings of Islam so as not to diverge from the main points of Islamic teachings and encourage the community to interfere in the implementation of religious activities with other Muslim citizens.

### **3.3 The Handling of Gafatar Conflict by the Police and Government in West Kalimantan Province**

Nationally, the Government began to make efforts to stop the development of this group since people and the media discussed the disappearance of a female doctor working in a hospital in Yogyakarta with her toddler son. The husband's attempt to find out where his wife and son were finally led to information that his wife and son had left Yogyakarta and joined the Gafatar group in Kalimantan. This case makes some people claim that 'brainwashing' is a way of recruiting members to this group. One of the strange things about membership of this group is that it is not permissible for members to own property for themselves. Therefore when joining the group and going to West Kalimantan, many members of this group sell all their possessions, both movable property and immovable property like the land and house in their hometowns. On the other hand, there are also some print media, TV and online media that state that this female doctor was not lost or kidnapped as expected, but migrated to Kalimantan and joined the Gafatar group on her own will. As soon as were declared missing on December 30, 2015, community of Mempawah District attempted to search for them. The result indicates that those suspected indeed admitted that they are former Gafatar members. The local community then demanded them to leave Mempawah District within 1 x 24 hours and reported the findings to the District Government. The doctor and her son were finally found in Iskandar Airport,



**Table 2** Implementation of the Evacuation of Former Gafatar Members in West Kalimantan

No	District/City	Date of Evacuation	Shelter before Evacuation	Household	Number		
					Man	Woman	Total
1.	Mempawah	19-1-2016	Bekangdam XII/Tj. Pura	309	626	512	1.140
2.	Kubu Raya	20-1-2016	Kompi Senapan Tj. Pura	127	229	210	439
3.	Sambas	20, 23, 26-1-2016	Bekangdam XII/Tj. Pura	34	77	54	131
4.	Bengkayang	21-1-2016	Bekangdam XII/Tj. Pura	80	155	105	260
5.	Sanggau	21-1-2016	Bekangdam XII/Tj. Pura	11	28	18	46
6.	Kapuas Hulu	22-1-2016	Bekangdam XII/Tj. Pura	29	55	49	104
7.	Sintang	22, 23-1-2016	Bekangdam XII/Tj. Pura	20	66	65	131
8.	Pontianak	22-1-2016	Graha Korpri	10	12	10	22
9.	Singkawang	23 to 26-1-2016	Bekangdam XII/Tj. Pura	66	149	136	285
10.	Melawi	22 to 26 -1-2016 (6 phases)	Bekangdam XII/Tj. Pura	333	576	396	972
11.	Landak	23-1-2016	Bekangdam XII/Tj. Pura	16	37	23	60
12.	Kayong Utara	23-1-2016 26-1-2016	Bekangdam XII/Tj. Pura	191	394	326	722
13.	Ketapang	26-1-2016	Camp Ketapang	201	649	632	1.281
<b>Total</b>				<b>1.427</b>	<b>3.055</b>	<b>2.536</b>	<b>5.591</b>

Furthermore Table 3 below illustrates the number of people and transportation used during the return or relocation of the former Gafatar members in the entire West Kalimantan Province as obtained from the Field of Intelligence and Security of the West Kalimantan Regional Police:

**Tabel 3** Implementation of Former Gafatar Members Relocation in West Kalimantan

No	Date	Transportation	Destination	Total Number
1.	22-1-2016	Lion Air – Civil Aviation	Pontianak - Jakarta	184
2.	23-1-2016	Lion Air – Civil Aviation	Pontianak - Jakarta	180
3.	23-1-2016	Lion Air – Civil Aviation	Pontianak-Surabaya	193
4.	23-1-2016	Lion Air – Civil Aviation	Pontianak-Surabaya	200
5.	23-1-2016	Lion Air – Civil Aviation	Pontianak - Jakarta	202
6.	23-1-2016	KRI 351 Ship - Eluk Gilimanuk	Pontianak-Semarang	350
7.	24-1-2016	Lion Air – Civil Aviation	Pontianak - Surabaya	185
8.	24-1-2016	Lion Air – Civil Aviation	Pontianak - Solo	77
9.	24-1-2016	Lion Air – Civil Aviation	Pontianak - Surabaya	149
10.	24-1-2016	KRI 516 Ship - Teluk Banten	Pontianak - Jakarta	707
11.	25-1-2016	Dharma Ferry 2 Ship	Ketapang - Semarang	1.281

12.	26-1-2016	KRI 511 Ship - Teluk Bone	Pontianak - Jakarta	823
13.	26-1-2016	Lion Air – Civil Aviation	Pontianak - Jakarta	191
Total				4.722

According to Authors, some religious-based conflicts in other parts of Indonesia were not handled as proper and as correct as Gafatar’s conflict. Therefore, appreciation should be given to the Government in handling this religious-based social conflict as the Government sought to quickly create security and order in society. In this way, they could prevent casualties and injuries and minimize the scale of damage to property and assets owned by victims. To resolve the conflict, the Government very seriously exerted all efforts to evacuate and repatriate all former Gafatar members by cooperating or coordinating with various agencies, including the police and the army. The Local Government even prepared vessels and a civil aircraft, all of which were financed with the regional budget. Nonetheless, there are some remaining problems which the Government has not resolved completely. One such problem is the problem of handling assets or property of former members of Gafatar in the conflict area that they left behind when the Government repatriated them to their respective hometowns.

### **3.4 Post-conflict Remaining Issues: Management of Assets or Property and Citizenship Administration**

It has been explained that when leaving their home for joining the group, either because of a ‘brainwashing’ process or because of another reason, members of this former Gafatar group mostly sold out their assets to move and settle in West Kalimantan Province. The money they have, either all or partly, was considered to become the community cash, so that while living in the settlement, their lives are really dependent on each other.

The obligation to give out the property (including money) owned by all former Gafatar members is factually written in their Organizational (Manual) Handbook. In the General Work Program section, for example, it is said that “organizational assets are essential for the smoothness and completeness of the program so that the organization is required to have a centralized and integrated financial system.” In the Organizational Code of Ethics it is mentioned that “each member must cleanse the power of thought from a sense of private ownership to a sense of ownership of responsibility from God the Almighty.” Furthermore in their Code of Conduct it is stated that “each member shall give up absolute personal ownership of a property as the organization wants.” From the statement, it appears that for the sake of the group, members have to give up their property or wealth to the organization.

The money or wealth already given to the organization is then collectively owned and used to buy the property in the form of land, to build houses, to buy cars or motorcycles and other goods. When they were repatriated to their hometown, what they had left are the land and other assets belonged to the organization. Currently, this group still has more than 10 hectares of land in the location which is burnt/abandoned and the data may still be available in the local land agency. However, for movable goods such as motor vehicles and other household appliances kept by the Government at Mempawah Police and Local Government Sports Building are difficult to register and thus it is difficult to return them to the rightful person, since there is no clarity on the ownership of the goods or assets. Assets that can be saved are only the daily necessities such as clothing, kitchen utensils, mattresses, school textbooks, some bicycles and other daily necessities.

When the study was conducted, the authors had the opportunity to look at the storage of these goods, but it was also difficult for the authors to recommend how the goods should be handled, given to, or returned by the government to the owners as it requires letters of ownership of the goods. Therefore, even though the government has done its best to keep the goods, eventually the goods are damaged and become junk. The Figures 5-8, were taken at the Sports Hall functioning as a warehouse for household utensils and at the Police Station of East Mempawah where the motorcycles belonging to former Gafatar members are stored.



**Figure 5-8** Warehouse of Property Assets Owned by former Gafatar members

During the focus of group discussion, there is a complaint from the local community because the Sports Hall is used to store the goods as they still use it for doing exercises on a regular basis. Because the items are stored almost in every corner, they have less space for doing exercises. Getting rid of these items would not be an option because the Government would later be blamed and considered to neglect its duty of handling the assets of the post-conflict victim. Therefore, the Government asks the local community to be patient until there is a definitive decision about where the goods will be returned to. During conducting site-visit to Police Station of East Mempawah, the Police had the same complaint. There were more than 70 motorcycles belonging to former Gafatar members piling up at the backyard of Police Station that could have been used for other activities.

Another post-conflict issue that must be resolved is the citizenship administration of former Gafatar members because in reality some of them have changed their Identity Card (KTP) permanently and legitimately become residents of West Kalimantan Province. Despite having a local identity card (KTP) and becoming a legal resident in the province of West Kalimantan, there is information that for the security and peace reasons, both local communities and the West Kalimantan Provincial Government declared that they declined the presence of these former Gafatar members at Mempawah. This, of course, brings its own consequences.

After being returned to their respective hometowns, the former Gafatar members certainly need a new citizenship certificate or document from the local government and if this is not resolved it will certainly harm them in the future, because without ID card and other documents such as birth certificate, education diploma etc., they will not be able to find any job elsewhere. Anyway, it is the duty and responsibility of Government and/or the state to provide citizenship administration to every citizen. Moreover, during the interview with the Chief of Kesbangpol-Linmas of East Java Province, in some areas, some of former Gafatar members families were unwilling to accept them. But after being given some explanation, they finally were willing to accept them.

#### **4. THE HANDLING OF THE CONFLICT IN THE PERSPECTIVE OF HUMAN RIGHTS**

Although it did not seem to appear as fully religious conflict, the Gafatar's conflict was still triggered on the basis of the existing religious issues. The community assume that the former Gafatar members have committed deviant religious activities by combining the 3 teachings, i.e. Islam, Christianity and Judaism. In response to all of their activities, the Government has established many policies, starting from the prohibition to do some activities to the dissolution of the organization. The prohibition and the dissolution of the Gafatar organization indeed can be questioned from the human rights perspective. It is the fundamental rights of every individual and group to embrace a religion or to assemble, and/or

to established and develop an organization and these all are guaranteed in the constitution and regulations of the Republic of Indonesia. To analyze the issues from the perspective of individual and collective human rights, we divide these issues into 3 categories bellow.

#### 4.1 Human Rights Issues Before the Conflict

The first issue that arose before the conflict was the issue of the dissolution of the Gafatar group that had once been called Millah Abraham Community and/or Al-Qiyadah Al-Islamiyah. As noted above, the forerunner of this group had been banned by the Government before becoming Gafatar. This group was banned as a result of concerns about the development of understandings that are not in accordance with the ideology or religions admitted in Indonesia. This is a matter of perception. It is not even our intention to judge, but for us the authors, this is quite 'strange' or 'wierd' because this school seeks to unite the 3 (three) major groups of Samawi religions that have historically evolved into Judaism, Christianity and Islam. The existence and values of Millah Abraham Community and/or Al-Qiyadah Al-Islamiyah can not be explained in this paper because of the absence of data. Nevertheless, the unification of the values of the three major Samawi religions is indeed very visible in the Handbook (Manualbook) of the members of Gafatar<sup>21</sup>.

Actually the content of the Vision, Mission and Purpose of this group shows a general statement that Gafatar seeks to realize peaceful, civilized, just and dignified nations under the auspices of God the Almighty through the unification of noble values of the nation, improvement of the quality of science and intellect, as well as the understanding and practice of universal values in order to be a mercy for the universe. The unification of these three major Samawi religions began to be seen in their work program referred to as the 7 Basic Service Programs. This program mentions an activity called 'Build Night Activities' which is an activity of studying God related science they do from midnight until dawn. It is also stated that this activity is a means of internalizing the formation of God the Almighty character in the members of the organization. It is mentioned that this 'Build Night Activities' is a learning, thinking, understanding and studying of the Word of God, without mentioning what kind of word and what holybook. The key to the success of this activity as stated in the Handbook is having a limited sleep and many activities. 'Build Night Activities' the most likely be the trigger of the open conflict led to the burning of the location of Gafatar housing complex. Perhaps because it was done at a quiet night, the sound of this religious activity made the local people think that Gafatar members engage in forbidden religious activities.

In the statement of the code of ethics it is stated that each member shall behave and be guided by the ethics of God and obey the bearer of God's words, which can be interpreted as obedience to their chief leader (in this case Ahmad Musadeq et al.). Although declared unproven in the Court, for this second point, the leaders of this group have also been charged with treason or desire to separate from the Republic of Indonesia and form a new state, i.e. Gafatar state. However, as mentioned above, after the trial process, the proven indictment for the leadership of this group is that they only did blasphemy as stipulated in Article 156a of the Indonesia Penal Code, not the treason plan as regulated in Article 110 Paragraph 1 juncto Article 107 Paragraph 2 of the Criminal Code on Conspiracy for Treason.

The combination the three values of the Samawi religions begins to be seen in one of the points of ethics against the Almighty God, in which each member is obligated to sanctify and glorify the day set by the Almighty God. In this point it is not explained what day to be honored; whereas, every Samawi religion has its own tradition of commemorating its holidays. The sentences and languages used in the ethics toward one God are also the combination of the languages commonly used by Christians including some of the 10 Commandments and commonly used by Jewish given to the prophet Moses.

The last thing showing that this group seeks to interfere with the Samawi religions is in the members' coaching syllabus which also confuses the term in the three religions. One example is that the Indonesian people must obey God the Almighty by calling Him either 'Gusti,' 'Allah' and 'Yahweh.' The notion of 'Gusti' can be interpreted as the term used by Christians, 'Allah' is used as the term by Moslems and 'Yahweh' is the term widely used by Jews. Other coaching materials also mention the essence of the 10 Commandments, the study of the history and values brought by Abraham, Moses and Jesus, a descendant of Israel (Bani Israel), and the last is Muhammad, a

<sup>21</sup> Central Board of Fajar Nusantara Movement, *Manualbook of Fajar Nusantara Movement*, (Jakarta: Central Board of Fajar Nusantara Movement, 2014)

descendant of Ishmael (Bani Ismail). At the end of the coaching chapter, it is written about the prophecies of the Prophet Muhammad and earlier saints who declared that they will rise and that will come a leader of the *A'jam* (non-Arabic) people who become the 'Liberator' or 'Messiah' or 'Queen of Justice' to raise the Land of Peace in the East (*Darussalam*), namely the Archipelago (the term used to refer to Indonesia). Although the combination or mixture of the values of these three Samawi religions is seen as 'strange' or 'weird' for the Authors, it is still a dilemma to say that this combination could factually be considered as religious blasphemy according to Article 156a of the Indonesia Penal Code? Is believing in God the Almighty, though mixed, a desecration of any particular religion? Beside blasphemy, the next violation of human rights against this group is the dissolution of the group because the constitution and the legislation in Indonesia as well as the values or principles of human rights clearly state that every citizen has this right to form and/or organize a group.

#### 4.2 Human Rights Issues During the Conflict

The issue of the right of individuals or people as a group to live freely and reside where they desire is an issue of human rights arising during the conflict. Every citizen has the right to reside in any territory of the country, as long as it does not violate the law. The purchase of the land by the group in West Kalimantan cannot legitimately be interpreted as a violation of the law, as they legally bought the land. When the open conflict occurred, the reconciliation within the conflicting parties, in this case the local community and the Gafatar group which is a group of migrants was also not being processed by the Government. Thus, although it can be categorized as a prudent policy to prevent greater losses and casualties, the repatriation or relocation of the members of the group undertaken by the Government may also be categorized as a violation of individuals and collective rights as to live freely and reside in a place they wish is one of the human rights that should not be limited by the government.

Given that many members of the group have sold all of their assets at home and are willing to live as a group, the Government can actually put more efforts to do certain approaches to this group of migrants rather than expell them from the land or location they live which they legally bought from the local communities. On the other hand, especially in handling the open conflict, because the local communities already burned down the group's residential complex and there was a possibility of a greater danger for them if the members of this group kept staying in the location, the evacuation and rescue of the members of this group was the right option done by the state. The evacuation and rescue of Gafatar members is in accordance with the humanitarian law context, even though the social conflicts that occurred at the scene were not armed conflict or war.

#### 4.3 Human Rights Issues after the Conflict

Post-conflict human rights issues, as have been described above, are issues closely related to the return of former Gafatar members to their respective home regions. Although there is a possibility that it is not due to coercion and carried out in the context of security and order, the return of all former members of Gafatar to their hometowns by the state can still be questioned from the perspective of Human Rights.

Article 9 paragraphs (1) and (2) of Human Rights Act No. 39/1999 states that (1) everyone has the right to live, to sustain life and to improve his standard of living; and (2) everyone has the right to live safely, peacefully, and happily. Article 27 also states that everyone has the right to move and reside anywhere within the territory of the Republic of Indonesia. Furthermore, in Article 31 paragraphs (1) and (2) it is also stated that (1) the place of residence shall not be disturbed; and (2) coming to or entering the property of a residence or entering the house of a residence against the will of the owner is against the law—it is permissible only in matters regulated by law. Based the content of the above article, in the perspective of human rights, the repatriation of the former Gafatar group to their respective hometown can actually be categorized as not admitting their right to live, move, and reside freely in the territory of the Republic of Indonesia. The burning of the group's residential complex done by the local community can be categorized as a human rights violation. Before the open conflict in the form of burning occurred, the Government should have been able to detect this based on the report of the intelligence agents so that the destruction of former Gafatar homes could be avoided. Even if there had been a suspicion from the community about the group's activities, education, reconciliation and mediation efforts with the local community could have been implemented before



the open conflict had occurred. This is to say that the open conflict and the return of former Gafatar to their hometown are unnecessary.

Although ultimately it was decided that the top leaders of the former Gafatar group were convicted of religious blasphemy, their purpose of forming the group was to develop or expand themselves which should be guaranteed by the state. This is in accordance with Article 15 which states <sup>37</sup> that every person shall have the right to advocate for his or her personal and collective development rights, to build his community, nation and country. Therefore, whatever the roots of the problem, although the settlement of the problems from the humanitarian perspective takes precedence, the task of the state, in this case the Government, is not completed after the return of the group members to their hometown. The Government should also ensure the sustainability of their socio-economic life in the absence of property, lack of employment and some cases the rejection of those people by their families and surrounding communities in their place of origin. Although until the present time the Government still keeps and guards the assets of former members of Gafatar, it could be said that this property is their only remaining possessions. It will be difficult or even impossible for them to return to this area even though they just want to take care of the certificate of the land because their coming will surely be a suspicion of the local community. Therefore, it is the duty of the state to also solve this problem. The most feasible way is to allocate funds from the state or regional budget as a compensation for the land and transfer the assets or land into the state land.

Another issue that the state must solve and be responsible for is the issue of citizenship administration. Many of the members of this group have become the residents and had new demographic administration data of West Kalimantan Province. After being burnt and fleeing from West Kalimantan Province, they will need new demographic administration data such as identity card, birth certificate, family card etc. Because the existence of these former members of the group is perceived as potentially creating problems, they will possibly find it difficult to resume the citizenship administration in their place of origin. Another issue with regard to administration is how to get their lost diplomas as the result of the burning of their residence by the masses. The diplomas are certainly indispensable for the sustainability of their socio-economic life because they are one of the most important requirements for applying for a job. The state has the responsibility to solve all these problems because they are all set out in the laws and regulations.

There is one bizarre thing concerning the handling of social conflict in Mempawah District, i.e. there is no single local citizens who burned the housing complex of former Gafatar residents brought to justice, even though what they did can be categorized as a violation of the law. In this case, the only people prosecuted are leaders of this group charged with religious blasphemy. It appears that this group is not considered as a victim of the conflict, but rather a group that if not dissolved will interfere with the security and order in society. With the trial of those who burned the group's residents, the restitution can be established. Thus, the burden of maintaining, storing or replacing the assets lost when the conflict was happening is not only the burden of the state.

## **5. REVIEW OF REGULATIONS ABOUT THE HANDLING OF SOCIAL CONFLICTS**

From the perspective of human rights, there are several critical reviews that the authors can give in order to improve the content of legislation at the national level on the handling of social conflicts based on the reality of the implementation of state responsibility, in this case the Government responsibility, in the case of former Gafatar members.

Based on the material and the content of all the articles in Act No. 7/2012 on the Handling of Social Conflict, only 1 article specifically mentions the term or the word "human rights" in Chapter II on the principles, objectives and scope of the handling of Social Conflict, i.e. in article 2. In this article it is explained that one of the principles of the handling of social conflict is based on human rights. For more details, the contents of Article 2 reads that the handling of the conflict should reflect the principles of a) humanity, b) respect of human rights, c) nationality, d) kinship, e) diversity, f) justice, g) gender equality, h) order and legality, i) sustainability, j) local wisdom, k) state responsibility, l) participation, m) impartiality, and n) non-discrimination. By incorporating the human rights term in Article 2 point b on the principles of the handling of social conflict, it must be assumed that all other

national legislations governing human rights principles should be used as a basis for the handling of social conflicts.

Furthermore, in the Elucidation of this law, there are only two explanatory clauses mentioning the term ‘human rights,’ i.e. the Explanation of Article 2 point a, which explains the meaning of the word ‘humanity’ and point b which explains the word ‘human rights.’ It is mentioned in the Elucidation of Article 2 of the law that the ‘principles of humanity’ in the handling of social conflict should reflect the protection and respect of human rights and the dignity of every citizen and the Indonesian people proportionately. Furthermore, in point b of the Elucidation of Article 2 concerning the principles of conflict management, it is stated that the principles of ‘human rights’ in the handling of conflicts should respect and uphold the rights which are naturally inherent in human beings and inseparable from human beings who must be protected, respected and upheld by every person, the state, the law and Government, for the sake of enhancing human dignity, prosperity, happiness, and justice.

Similarly, the term ‘human rights’ in the content of the entire articles in the Government Regulation No. 2/2015 which is the regulation of the implementation of Act No. 7/2012 on the Handling of Social Conflict, only 1 article is found, i.e. Article 42 paragraph (1) stating that Indonesian National Armed Forces (TNI) carrying out the duty of assisting the handling of a conflict must be subject to the provisions of law and human rights laws and principles.

The lack of use of the term ‘human rights’ in both national level regulations that serve as the basic provisions of the handling of social conflict is unfortunate, but in this context, the authors do not conclude that all the provisions of the two rules do not reflect the handling of social conflict from the human rights perspective. Our point is that there are some chapters in which these human rights principles or perspectives can be better emphasized.

In the context of the protection of human rights, several matters relating to the handling of social conflicts should be emphasized. For the preventive phase, if the early warning system and institutional capacity of the Government, especially the intelligence agents, could have been improved, the case of religious blasphemy as alleged to the former Gafatar leaders might not have happened. Thus the preventive phase becomes the most important stage in preventing a social conflict to occur. When the Government can detect a potential of a conflict immediately, human rights violations will not happen. The Government needs to take anticipatory steps by providing basic education on human rights for all components of the society. Public education in this case becomes a crucial process. Unfortunately, usually the Government is late in detecting such information so that the potential of an open conflict escalates.

For the phase of conflict management, it should be emphasized who the victim and who the perpetrator are. In open social conflicts there are often difficulties in defining them, including in the case of this former Gafatar group. This is because there has been a growing perception by both the public and the Government that the activities undertaken by this group have fallen into the category of violating the law in the form of religious blasphemy. If the government firmly establishes the perpetrators of burning residential compounds of former Gafatar residents as suspects and enforces the law without discrimination by prosecuting them, the Government does not need to bear the burden by spending too much money in providing the compensation. Judging and punishing the perpetrators is one of the tasks of the state as well in the context of the protection of human rights, although settling the conflict from the humanitarian perspective must be a top priority during the conflict.

In post-conflict contexts, the state’s rights and obligations should also be emphasized to certain restrictions in giving the compensation as the perpetrators should also be responsible in giving restitution. The government compensation can be in the form of providing shelters, providing access to relocation and providing easy access in the context of citizenship administration and helping to solve other necessary administrative problems such as the issuance or reproduction of lost documents, etc. It is also necessary to fully regulate the completion of the restoration of property rights of the citizens involved in social conflicts where the Government needs to immediately conduct data collection in the framework of returning and/or selling of movable goods at abandoned locations and immovable property in the form of abandoned land. Considering that abandoned mobile goods are defective goods, the local Government should be given the necessary authority to sell or auction such items for further safekeeping. There is a substantial risk to their security and safety if these former Gafatar members have to return to West Kalimantan to take care of their belongings. Therefore the government needs to

be firm in establishing the law regarding the Government's responsibility to settle the transfer of the land rights and to give all the results to whoever owns them legally.

The last thing to think about is that the assurance to resolve social conflicts in a non-litigation way, either in the form of mediation and/or reconciliation to create peace, must take precedence. Thus, the settlement of conflicts by litigation channel and/or by court must be considered as the last resort. This means that before a non-litigation settlement through the peace process fails, it is not justified to undertake a court settlement. If either party or both sides in the conflict have taken the settlement through trial in both criminal and civil cases, then the judicial process should be suspended until there is certainty of the outcome of the settlement of social conflict through non-litigation channels.

## 6. CONCLUSION AND POLICY RECOMENDATION

From what has been described above, the handling of social conflicts related to former Gafatar members conducted by the Government is in line with the human rights principles, especially humanitarian principles. However, for the handling of pre-conflict and post-conflict there are still some procedures that are not in line with the principles of human rights.

Prior to the open conflict, there were still some human rights violations such as the decision to ban the activities of these group members to embrace the religion and to worship according to their belief, including the blasphemy charges to the leaders of this group as regulated in Article 156a of the Penal Code. In addition, the decision of dissolution of this group by the Government is also not in line with the human rights to form a group or a union guaranteed by the constitution as well as by laws and regulations in Indonesia.

For post-conflict handling, there are some remaining issues, i.e. demographic administration and the assets in the form of land and other moving goods left in the conflict site. It is also necessary for the Government to affirm the obligation of the perpetrator to provide restitution and if it is not possible, it should be emphasized to what extent the state needs to provide the compensation for the victims of the conflict.

The recommendation given by the authors to the Government is that the Government needs to immediately amend Act No. 7/2012 on Handling of Social Conflict and the Government Decree No. 2, 2015 on Handling of Social Conflict as they still have many shortcomings. This needs to be done in the context of the protection of human rights of victims of conflict and society at large.

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