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Questions  

1. Does Indonesia prohibit the marriage of persons with different religious backgrounds? (Law No.1/1974 refers).  
2. Would Muslims force a Muslim man and his Christian wife apart if they were to marry in Australia and return to live in Indonesia?  
3. Is there pressure put on Muslims not to marry Christians in Indonesia (and vice versa)?  
4. Is there any impediment to a Muslim man converting to Christianity in Indonesia?  
5. Is there state sponsored discrimination/maltreatment of Christians in Indonesia?  
6. Does Indonesia provide state protection to persons who may be at threat from religious violence?  
7. Are there any barriers to relocation elsewhere in Indonesia? Are there parts of Indonesia which are more densely populated by Christians?  

RESPONSE  

1. Does Indonesia prohibit the marriage of persons with different religious backgrounds? (Law No. 1/1974 refers).  

The commonly held view is that interfaith marriage is prohibited in Indonesia. Nonetheless, various scholars and commentators in the region continue to challenge the legality of this interpretation of the Indonesian Marriage Law (Law No. 1 of 1974). Article 2 (1) of the Marriage Law “states that marriage is valid only if it takes place in accordance with the religious laws and beliefs of the parties.” However, some scholars and legal professionals argue that Article 2 (1) does not explicitly forbid marriage between persons of different religions (Lukito, Ratno 2008, ‘The enigma of legal pluralism in Indonesian Islam: the case of interfaith marriage’, Journal of Islamic Law and Culture, Vol. 10, No. 2, pp. 176–187 – Attachment 1). The contested opinions on the legality of interfaith marriage – particularly
concerning the interpretation of Law No. 1 of 1974 – are illustrated below under the heading Indonesian Marriage Law (UUP No.1 of 1974).

Meanwhile, the practice of marriage between persons of different religions continues in Indonesia; though such unions face legal complexities which the government is yet to resolve. According to various sources, there are four methods generally employed by couples in order to circumvent the Indonesian Marriage Law. The most common option is for one person to convert to their partner’s religion prior to marriage so the marriage contract is valid and recognised by the state. Reportedly in most cases, following registration the person who converted continues to practice their original faith. The next most common option is for couples to travel overseas and marry; with Singapore and Australia being the two most favoured countries. This option is only available to those with the necessary financial capacity; most popular with celebrities and wealthy business people. Another option is to seek a court order; however the last reported case was in 1989 and took three years for the Supreme Court to issue a judgement. Though not commonly reported, the final option is to marry according to each partner’s religion. However, as one source states, the problem then arises as to “which marriage is then to be recognised by the state” (for information on the four options used to circumvent the existing law, see: ‘Mixed Religion Marriages’ 2007, Indonesia Matters website, 3 September http://www.indonesiamatters.com/1395/mixed-religion-marriages/ – Accessed 2 December 2008 – Attachment 2; see also: Santoso, D. 2003, ‘Getting around the inter-religious marriage law’, The Jakarta Post, 1 December http://www.thejakartapost.com/news/2003/12/01/getting-around-interreligious-marriage-law.html – Accessed 18 November 2008 – Attachment 3; for legal opinion and the 1989 Supreme Court order, see: Lukito, Ratno 2008, ‘The enigma of legal pluralism in Indonesian Islam: the case of interfaith marriage’, Journal of Islamic Law and Culture, Vol. 10, No. 2, pp. 176–187 – Attachment 1).

The Australian Embassy in Jakarta’s website includes a section on marriage in Indonesia, which states “couples must be of the same religion”:

Under Law No.1 of 1974 concerning marriage (the ‘Marriage Law’), both parties must hold the same religion, if not, one party must convert to the other religion. Anecdotal evidence suggests that the process of converting to Islam is not a lengthy one. To start the process, speak with the Imam at the local mosque (‘Marriage in Indonesia’ (undated), Australian Embassy in Indonesia website http://www.indonesia.embassy.gov.au/jakt/MarriageInd.html – Accessed 2 December 2008 – Attachment 4).

The US Department of State’s 2008 report on religious freedom states that men and women of different religions continue to face “serious obstacles to marrying and officially registering their marriages”:

Such couples had difficulty finding a religious official willing to perform an interfaith marriage ceremony; a religious ceremony is required before a marriage can be registered. As a result, some persons converted in order to marry. Others traveled overseas, where they wed and then registered the marriage at an Indonesian embassy. Despite being among the officially recognized faiths, Hindus stated that they frequently had to travel long distances to have their marriages registered, because in many rural areas the local government could not or would not perform the registration (US Department of State 2008, International Religious Freedom Report for 2008 – Indonesia, 19 September – Attachment 5).
A 2008 article by the International Anglican Family Network discusses interfaith marriage and family life in various countries. An extract relating to interfaith marriage in Indonesia states the following:

**Indonesia.** Even though Islamic law prohibits inter faith marriages, many Muslim women have married non-Muslim men and vice versa. In order for their children to obtain birth certificates, many of them had to covert to the religion of their spouses. There are two characteristics of inter faith marriages: religious conversion and religious co-existence. A consequence of both parties remaining firm to their respective religions and still staying married is that theological boundaries are getting thinner (‘Inter Faith Marriage and Family Life’ 2008, International Anglican Family Network website, July [http://iafn.anglicancommunion.org/newsletters/2008/july/interfaith.cfm](http://iafn.anglicancommunion.org/newsletters/2008/july/interfaith.cfm) – Accessed 1 December 2008 – Attachment 6).

A 2005 article by *The Jakarta Post* addresses the issue of interfaith marriages from a legal perspective as well as personal perspectives. Indonesia’s largest Muslim organisation, Nahdlatul Ulama (NU), reportedly hosted a discussion on interfaith marriage titled ‘Interreligious Marriage: Learning from Various Countries’ Experiences’. The pertinent extracts follow in detail.

“Interfaith marriage is a decision made by people who know what they should do with their lives, so it’s not something that should be decided by the state. The state cannot be allowed to impose its way of thinking on its citizens,” said Ade Kusuma Ningtyas of the Rahima Center for Education and Information on Islamic and Women Rights Issues.

…“Marriage is a personal choice, as is religion. Religious authorities and the state should provide comprehensive information for those who want to have such a marriage, but not by banning it,” said head of the research division at Rahima.

The issue was brought up during a discussion at the office of the country’s largest Muslim organization Nahdlatul Ulama (NU) in Jakarta on Saturday titled “Interreligious Marriage: Learning from Various Countries’ Experiences.”

Law No. 1/1974 on marriage, stipulates that the state will only recognize marriages between people of the same religion. This means a man and woman from different religious backgrounds must choose to marry in accordance with one religion, so that their marriage will be acknowledged by the state.

A number of celebrities and expatriates have had their inter-religious marriage recognized by getting married in Singapore or Australia, countries where the practice is legitimate.

Ade said that a move to accept interfaith marriages was also crucial to help develop a more pluralist and tolerant society in the world’s largest Muslim country.

Ade said that Sharia (Islamic Law) has been misinterpreted by Indonesian Muslims, by considering it the final word from God and forgetting that human beings have interpreted the verses of the Koran.

“There were human interventions in interpreting the verses of the Koran in terms of rules and laws in society, which then were enforced by the state,” said Nining.
She explained that the laws, which were assumed by the state based on Islamic teachings, were formulated by people of certain beliefs and schools of thought, therefore its application had disregarded differences among Muslims.

Speaking at Saturday’s discussion was Abdullahi Ahmed An-Na’im, an expert on sharia at Emory University school of law, in the U.S. who believes religions are dynamic and have to be developed according to the changes of time.

“Sharia ceases to be sharia by the very act of enacting it as state law, because then it becomes the political will of the state, not the religious law of Muslims. If it is the religious law of Muslims, it should remain a matter of free choice,” he said in an interview in 2004.

“As a Muslim, I’m entitled to chose one opinion over another, but if you make it state law, you deny me that right” (‘State must not interfere in interfaith marriages: Experts’ 2005, The Jakarta Post, 15 February – Attachment 7).

A 2003 article by The Jakarta Post also discusses the Marriage Law in the legal context and illustrates the personal experiences of three interfaith marriages. In the first two marriages one party chose to convert to their partner’s religion in order to have the marriage officially recognised. The first couple involves a Christian man and a Muslim woman; the man chose to convert to Islam in this case. The second couple also involves a Christian man and a Muslim woman. However, in this case the woman chose to convert to Christianity “since I bought the house in my name as a Christian, my wife decided to convert to Christianity”. The third marriage involves a Protestant woman and a Catholic man who, after reportedly approaching one church after another, finally found “a Catholic church willing to accept our inter-religious marriage on the condition that all our children be baptized into Catholicism”. The pertinent extracts follow in detail.

It was back in 1986 when Agus, a native of Magelang, Central Java, had to convert to Islam as it was the only way he could marry his lover and obtain legal status for their marriage.

Agus met his wife in his native village in 1983. He was a Christian. A year later, they decided to try their luck in Jakarta.

Once in Jakarta, Agus took a job as a cab driver and his girlfriend began teaching at a public school. It was not until two years later that they finally decided to marry.

But they were confused as they knew that inter-religious marriage was forbidden by the state.

The Law No. 1/1974 on marriage, stipulates that the state will only recognize marriages between people of the same religion. This means a couple from different religious backgrounds must choose which religious ritual they will follow in order to get their marriage acknowledged by the state.

A number of celebrities and expatriates have had their inter-religious marriage recognized by getting married in Singapore or Australia, countries where the practice is legitimate.

Agus is not one of the well-off people, able to afford such a trip.

“I didn’t know anything about the law. All I knew was that I couldn’t get married legally if my wife and I didn’t have the same religion,” Agus told The Jakarta Post.
He decided to convert to Islam in order to avoid all the hassles and get married.

“I told my wife I would convert to Islam for practical reasons. I am a Muslim on paper, but I’m a Christian at heart because I still go to church every Sunday and follow all the Christian principles,” Agus told the Post.

As for his three children, the 41-year-old man said he gave them the freedom to choose which religion they felt at peace with. They chose Islam.

Like Agus, Budi experienced a similar situation. Only in his case, his wife converted to Christianity.

“We are just common people with no money. We don’t know anything about law. We just wanted to get married as easily as possible. And since I bought the house in my name as a Christian, my wife decided to convert to Christianity,” said the 32-year-old trader.

However, he said, he let his wife, who hails from Jakarta, practice her original religion.

“My wife converted for the sake of the legality of our marriage. After that, she is free to practice her belief as a Muslim,” Budi, who is also a native Jakartan, said. His four children, however, are Christians and go to Christian schools.

Novi experienced a slightly different story. She was allowed to maintain her religion -- Protestant Christianity, when she married her Catholic boyfriend.

“We moved from one church to another, to find out if they would recognize our marriage,” the 33-year-old housewife recalled.

They finally found one, but with some conditions.

“There was a Catholic church willing to accept our inter-religious marriage on the condition that all our children be baptized into Catholicism,” said Novi.

Activists have long demanded that the government lift the ban against inter-religious marriage, on grounds that it violated the freedom of religion and belief.

In the case of Budi and Agus, religion has been reduced to a mere tool to obtain legal status.

As Novi put it, “different religions should not matter. To me, everybody has the right to practice their own belief. After all, we worship the same” God (Santoso, D. 2003, ‘Getting around the inter-religious marriage law’, The Jakarta Post, 1 December  http://www.thejakartapost.com/news/2003/12/01/getting-around-interreligious-marriage-law.html – Accessed 18 November 2008 – Attachment 3).

**Indonesian Marriage Law (UUP No.1 of 1974)**

The Indonesian Marriage Law, commonly referred to as Law No. 1/1974, was officially passed on 2 January 1974. However, Law No. 1/1974 had a long and contentious history prior to its sanction; starting in 1966 when the Minister for Justice requested “law body LPHN (Lembaga Pembinaan Hukum Nasional) to develop a national marriage law that would be based on the foundation of Pancasila” [the Five Founding Principles which provide the national foundation for the Republic]. This task reportedly proved more challenging than
initially anticipated; particularly due to Indonesia’s diverse composition of religious and cultural backgrounds, as well as a pluralistic colonial legacy. Women’s organisations, who had been lobbying for years on such things as the arbitrary nature of divorce and polygamy, reportedly made considerable submissions to the government prior to formalising the new law. Once the law was passed, the Minister for Justice at the time reportedly described the new law as a significant increase in the recognition of women’s rights. However, when it came to addressing interfaith or interreligious marriage, much debate arose between law makers and Muslim organisations. Two sources which discuss the history and contention surrounding the legality of interfaith marriage vis-à-vis Law No. 1/1974 are outlined below; including pertinent extracts (Richmond, H. 2007, ‘The Legality of Interfaith Marriages in Indonesia: Contested Viewpoints’, The University of Melbourne’s Centre for Islamic Law & Society (CILS) website, November www.cils.unimelb.edu.au/documents/Richmond_Helen-printed.pdf – Accessed 25 November 2008 – Attachment 24).

In November 2007 at the Centre for Islamic Law & Society’s Islamic Studies conference at the University of Melbourne, PhD candidate Helen Richmond presented a paper discussing the legality of interfaith marriage in Indonesia. The following extracts provide a thorough breakdown of the history of Law No. 1/1974; challenges to initial drafts of the law; contested opinions on the legality of interfaith marriage; and the effects of the official interpretation of Articles 2 and 8(f) of Law No. 1/1974:

…In 1966 the Minister for Justice requested that the law body LPHN (Lembaga Pembinaan Hukum Nasional) to develop a national marriage law that would be based on the foundation of Pancasila. There were some who had doubts about the wisdom of trying to develop a unified national marriage law in a country that had such a diversity of peoples, cultures and religions. The task would indeed be fraught with difficulties and the pluralism of the colonial legacy presented a major challenge for those given the task of drafting new legislation. In fact, the government in 1950 had already set up a committee to investigate marriage, divorce and inheritance (Panitia Penyelidik Peraturan Hukum Perkawinan, Talak dan Rujuk. The committee had been given the task of examining existing laws and proposing new laws for the Republic. The DPR discussed the work of the committee and a National Seminar took place in 1963 which also fed into the process of developing a national marriage law. Aspiring to achieve a unified marriage law was seen as symbolic in promoting the unity of Indonesia.

Seven years after LPHN had been given the task, and recalling two earlier drafts, the President announced the marriage bill (RUUP) on 31 July 1973. Even before it was released concerns were being expressed. Prof. H. Kasman Singodimedjo, Chair of the large Muslim organization Muhammadiyah and its Secretary, Ir. H.M.Sanusi wrote to the Government on 30 July saying that “most of the what is in the RUU .. is diametrically opposed to the teachings of Islam”. They outlined the areas where the bill departed from Islamic Law and requested the bill be reconsidered. Sessions of Parliament after the bill was introduced became very heated with strong reservations expressed, particularly by the Muslim faction, PPP [Partai Persatuan Pembangunan].

…Materials prepared by Muslim groups outlined seven areas where there were differences between the draft bill and Muslim teachings with two key areas of major concern. Firstly, the bill stated that a marriage was only valid if it was registered by the appropriate government agencies (with no mention to the Islamic courts). Many Muslims saw this as evidence that the government wanted to adopt a secularized approach to marriage law and attack their institutions. This set up a contest between state power and religious authority in the minds of many Muslims and indeed Muslim groups already felt on the back foot with disappointing results in the 1971 elections and moves being made by the President to restrict use of Islamic symbols by Muslim parties.
Outside Parliament Muslim opposition to the draft Bill was growing and newspaper articles critical of the bill were influencing public opinion. Fiery sermons were being preached around the country and popular support was mobilised.

On September 27 the Government prepared a response to the concerns raised by members of the Parliament and the general public presented by the Minister for Justice, Oemar Seno Adji and the Minister for Religious Affairs, H.A. Mukti Ali. As Mukti Ali spoke in Parliament around 500 student protestors caused a disturbance and the session had to be adjourned. Under pressure the Government realized that it needed to negotiate with Muslim groups and adopt some of the alternate Muslim proposals. NU and Muhammadiya leaders offered suggestions to the government to rework the bill and a small committee was set up including members from the different factions and the armed forces to try and arrive at consensus. Agreement was reached by the Committee of 7 persons. There were assurances that Muslim law relating to marriage was unchanged and that the status of the Religious Courts remained the same. Matters in the draft legislation that went against Islamic doctrine which could not be adapted, would be dropped. The articles concerning divorce and polygamy remained largely unchanged. Article 2 became two parts, firstly stating that marriage needs to be conducted according to each religion and secondly on the matter of registration of marriages.

In December 1973, only a couple of weeks before the Marriage Law would be passed, PGI [Dewan Gereja-Gereja Indonesia – Indonesian Council of Churches – Protestant] and MAWI [Majelis Agung Wali Gereja Indonesia – High Council of Indonesian Bishops – Catholic] wrote to government outlining a number of concerns. The memorandum asked for reassurance that the State guarantees freedom of each person to worship according to their beliefs. They requested clarification on the legal status of marriages which had not been conducted according to a religious faith. They also requested that, on humanitarian grounds and for good order, the State ensure that all people are able to marry legally according to the law of the land. They asked the question “For prospective couples who have different religions, something that is often the case, under which religious law do they marry?” The memorandum also noted that as a consequence to the decision to only recognise religious marriages, churches would need to come up with their own marriage laws. Christians clearly would have preferred a law that continued to allow the possibility of marriages to take place according to secular law. Their understanding of the relationship between religion and state had been formed by a different set of experience Whilst Muslims felt obliged to argue for the importance of including a Muslim flavor in the UUP, Christians were left feeling some sense of unease and marginalization. When a redrafted bill that accommodated Muslim concerns came before Parliament it was subsequently passed.

The commonly understood interpretation of the law is that a couple must choose one religion before they marry and be married according to that religion and that Indonesians could no longer lawfully become married to someone of another faith unless one of them converted. This has become the most widely held view particularly since the mid 1980s. Article 2 and 8(f) have also provided the rationale for District Religious Affairs Offices (KUA) and civil registry offices (KCS) to refuse recognition to interfaith marriages.

Though not all churches are able to bless interfaith marriages, Roman Catholic Church and Protestant denominations believe the State has a responsibility to assist its citizens who choose to enter into such marriages. Legal experts tend to agree with this position. The Ketua Mahkamah Agung, Ali Said is reported as saying that prior laws relating to mixed marriage remain valid if they are not specifically covered by UU 1/1974 (Sairin & Pattiasina, p 53). A ‘legal void’ in the marriage law allows Article 66 of the UUP to be invoked. This repeal provision states that the new law revokes the old laws on the same subject only insofar as they are in conflict with the new law. The Dutch law relating to mixed marriages was regarded as continuing to be applicable. The Attorney General, Mudjon of the Supreme Court
(Mahkamah Agung) wrote to the Minister for the Department of Religious Affairs and the Minister for Internal Affairs in April 1981 outlining this view again and referring to the local and regional courts that were urgently requesting advice and further clarification on this matter. The letter requested the Minister of Religion to assist in the smooth administration of mixed marriages and the Minister for Internal Affairs to ensure that all Governors, Bupati, and officials working in Registry Offices assist in conducting inter-religious marriages. The letter pointed to the importance of providing legal security for couples and avoiding negative and undesirable effects that could flow from unregistered marriages. The Supreme Court’s decision to uphold the right of interfaith couples to have their marriage legalized was not however, effective in bringing about a change on the ground. The President’s instruction (12/1983) relating to civil registry offices (KCS) stated in Art. 2 (a) that their role and responsibility was in relation to registering births, marriages, divorces and deaths of those who are not Muslims. (bagi mereka yang bukan beragama Islam). Advice from the Ministry of Religion to marriage registry officials in 1984 further curtailed KCS from registering marriages of Muslims. From this time on it has become increasing difficult for interfaith couples to legally marry in Indonesia. An unusual decicision of the Supreme Court in 1989 also contributed to the confusion.

Human rights groups have argued that it is a severe human rights violation and amounts to discrimination if couples are prohibited from being allowed to marry the person of their choice. They therefore have no protection under the law. In recent years some Muslim based organizations have been willing to assist couples by offering a Muslim ceremony without requiring conversion highlighting the emergence of a progressive Muslim voice that has challenged traditional interpretations. Marriage registries and courts interpret the law on a case by case basis with many registry offices refusing to legalise interfaith marriages whilst other offices are more accommodating.

The 1974 Marriage Law brought more visibly onto the agenda of churches, the need to define their own position on inter-religious marriage and this led some churches to develop policies. The Gereja Kristen Indonesian (GKI), for example, had a heated debate on the subject in 1975 before agreeing to a procedure in relation to conducting inter-religious marriages. For churches that had religious prescripts permitting members to marry someone of another faith, such marriages could occur lawfully and take place, if appropriate, in the context of a church service, ratified through the registry office. The non-Christian (usually Muslim) partner however is seen as going against the religious precepts of their religion and Civil Registry offices are reluctant to recognize such marriages. Catholic theologian Al Purwa Hadiwardoyo, writing in 1990, acknowledged the difficult situation that exists for interfaith couples and expressed the hope that the day might come when inter-religious marriage ceremonies between Catholics and Muslims could be jointly conducted as is the case for Catholic and Protestant marriages (Richmond, H. 2007, ‘The Legality of Interfaith Marriages in Indonesia: Contested Viewpoints’, The University of Melbourne’s Centre for Islamic Law & Society (CILS) website, November www.cils.unimelb.edu.au/documents/Richmond_Helen-printed.pdf – Accessed 25 November 2008 – Attachment 24).

A 2008 article published by the Journal of Islamic Law and Culture, and authored by Ratno Lukito from the Faculty of Shariah, State Islamic University Sunan Kalijaga Yogyakarta, discusses the issues of legal interpretation surrounding Law No. 1/1974. Lukito puts forward various legal interpretations of the marriage law, stating that the government has often been perplexed by the ongoing debate itself; leaving it “in the hands of legal scholars, whose attitudes and opinions on the issue of interfaith marriage divide them into four groups”. Pertinent extracts follow below which expound the various opinions and arguments.

According to the Marriage Law of Indonesia, the marriage must reflect the religious values of each party. Espousing some sort of religious belief seems even to be a conditio sine qua non
for entering into a marital relationship. Article 2 (1) of the Law clearly states that the marriage is valid only if it takes place in accordance with the religious laws and beliefs of the parties. The marriage is thus not a mere secular, private business between two persons but rather an institution confirming divine values. With its recognition of the important place of religion in the marital relationship, the state confirms the role of religious law in the institution of the family. However, the problem is that validating marriage on the basis of the couple’s religious beliefs is complicated by the fact that the partners to a marriage are not always from the same religious background. Men and women with different religious affiliations quite often fall in love each other and decide to build a family. Hence, a literal interpretation of the sentence in Article 2 (1) that marriage is valid “if done according to the law of religion and belief of each party” can be taken as a formal prohibition of a marital relationship between two parties who have different religions or beliefs. The Muslim law on marriage, for instance, contains elements that are foreign to Christian tradition, and *vice versa*: thus intermarriage by nature contradicts the law. And since the marital relationship in Indonesia is understood only as a contract between two persons from the same religion, interfaith marriage is formally excluded.

However, interpreting Article 2 (1) of the Marriage Law as a prohibition on interfaith marriage can be rejected due to the fact that the Law itself does not explicitly forbid marriage between parties of different religious affiliations. This is supported by the fact that the articles dealing with impediments to marriage are silent as to whether different religious affiliations can nullify such a contract (see Articles 8–28 of the Law). It is thus unacceptable, at least in the view of some scholars, that Article 2 (1) should be interpreted as outlawing the practice of interfaith marriage in Indonesia. In their view, the Article only states that the parties should undertake the marriage contract according to religious law. Hence, if, according to the religious law, there is no hindrance to the marriage, the marriage can take place. In other words, Article 2 (1) alone does not present a convincing argument for banning interfaith marriage.

This is not to say that mixed-religion marriage is a problem-free issue, even since the passage of the Marriage Law in 1974. Indeed, with the unification of marriage law, the several different laws that governed citizens with varied backgrounds and cultures were abolished, obliging all Indonesians to comply with the new national Marriage Law. The unification did not, however, resolve the legal problems arising as a result of interpersonal relationship between people of different religions, since the Marriage Law itself seems to have overlooked the complexity of the problem.

…Thus, the uncertainty over interfaith marriage in Indonesia is the result of legal imprecision. The question is: If the Marriage Law is silent on the issue, how should the state deal with the many cases of interfaith marriage taking place in the society? Should all such marriages be thereafter considered as illegal? Such unsolved questions have posed a considerable problem for the state in the wake of the promulgation of the Marriage Law. Short on answers, the government has left the debate in the hands of legal scholars, whose attitudes and opinions on the issue of interfaith marriage divide them into four groups. The first group consists of scholars, most belonging to various religious groups, who state the opinion that interfaith marriage is completely outlawed in the country. They argue that, whatever the reason for it, such marriage is illegal, as are the children who resulted therefrom. It is thus the responsibility of every individual in the country to avoid making such an illegal contract. Second is a more pragmatic group of scholars who think that interfaith marriage is forbidden on the basis of the Marriage Law, and that one of the parties to the marriage should therefore change his/her religion before the contract is undertaken so that the issue of interfaith marriage can be avoided. It is also the view of this group that if the parties do not want to convert, the old principle of the Dutch mixed marriage rule can be applied, i.e., that the wife should comply with the law of the husband. In line with the previous group, the third group
believes that interfaith marriage should be allowed to proceed in Indonesia, as long as there is a pre-nuptial agreement between the two parties on the religion of the offspring, i.e., whether they should follow the religion of the husband or the wife. The fourth group, consisting of more contemporary scholars, see the case from a human rights perspective. Interfaith marriage in their view is a human right possessed by every person in the country. The government cannot therefore make any law or regulation outlawing interfaith marriage because it is a right of every person that every state should recognize. Also, in line with the Universal Declaration of Human Rights, they hold difference of religious affiliation should not be a prohibitory factor with regard to marriage, and that the Indonesian government cannot therefore simply ban interfaith marriage, as this would violate human rights principles recognized throughout the world.

…The confusion extends into the government bureaucracy itself. One example can be seen in the differences between the provincial government of the Special Region of Jakarta and the Ministry of Religious Affairs over the license of the Civil Registration Office (Kantor Catatan Sipil, KCS)) and the Office of Religious Affairs (Kantor Urusan Agama, KUA) over the registration of interfaith marriages. Because many cases of interfaith marriage occur in the Jakarta region, the Governor of Jakarta in 1986 (through his letter No. 2185/-1.755.2/CS/1986) decided to accept such marriages on the following conditions: (1) interfaith marriages are generally to take place under the auspices of the Office of Civil Registration; (2) a marriage between a Muslim man and non-Muslim woman is to be registered at the Office of Religious Affairs (KUA); (3) a marriage between a Muslim woman and non-Muslim man is to be registered at the Office of Civil Registration (KCS) after acquiring permission from the Primary Court. The problem was not, however, solved with the issuance of this letter, since less than one month afterwards the Minister of Religious Affairs, through the Director of the Establishment of Religious Courts, issued letter No. EV/HK.03.4/2803/86 effectively forbidding the registration of interfaith marriages under the terms specified in the Governor’s letter. The Ministry’s letter stated that interfaith marriage was absolutely in opposition to the teachings of religious (Islamic) law as well as the text and spirit of the Marriage Law. Registering such unions in the Civil Registration Office not only transgressed state laws (i.e., Law No. 1 of 1974, Government Regulation No. 9 of 1975 and Presidential Decision No. 12 of 1983), but also challenged the Islamic proscription of interfaith marriage as understood from Q 2.221; 5.5 and 60.10, as well as the consensus (ijmam arc ‘ulamam arc ) of the ‘ulam am arc ‘. The decision of the Governor of Jakarta to allow interfaith marriage was thus to be annulled. However, two weeks, later, the Governor of Jakarta again gave his answer to the Ministry in his letter No. 2009/-1.755.2, in which he supported the position taken in his previous letter. He thus reaffirmed that interfaith marriage was possible in the Jakarta region, where it could be registered at the offices of either the KUA or the KCS.13 This shows the complexity of the issue of interfaith marriage throughout the 1980s, one that could not be solved through administrative regulations. The disagreement between the two levels of government points to their inconsistency in handling the problem (Lukito, Ratno 2008, ‘The enigma of legal pluralism in Indonesian Islam: the case of interfaith marriage’, Journal of Islamic Law and Culture, Vol. 10, No. 2, pp. 176–187 – Attachment 1).

2. Would Muslims force a Muslim man and his Christian wife apart if they were to marry in Australia and return to live in Indonesia?

3. Is there pressure put on Muslims not to marry Christians in Indonesia (and vice versa)?

As stated above, the sources available indicate that interfaith relationships and marriages continue to be a source of contention in Indonesia. Societal and family pressure tends to vary, depending on the religious rigidity of family members. Some examples of societal and family
attitudes are illustrated below in a selection of news reports, primarily sourced from The Jakarta Post.

An April 2005 article by The Jakarta Post discusses the conflicting opinions on the subject of interfaith marriage during a “media workshop on pluralism and cross-cultural understanding”. The report also comments that for couples who travel overseas to marry and then return to Indonesia may still confront issues regarding time and high costs when it comes to registering their marriage with Indonesian civil courts:

In a recent media workshop on pluralism and cross-cultural understanding, the participants shot up their hands, like a bunch of second graders competing for candies to answer the teacher’s question.

Only, it was not a question that prompted them to raise their hands and ask permission to interject.

It was a statement from speaker Siti Musdah Mulia, an Islamic jurisprudence researcher and gender expert, who claimed that, contrary to common perception, Islam actually does not forbid interfaith marriage.

A disapproving journalist said that as he would like to have a wife and children, to pursue heaven and the same God together, it would be impossible if his wife was of a different religion.

Musdah said that it was as if the journalist was playing God, as God Himself did not require that.

“Do you think there are many Gods? Do you think that people of different religions do not want to pursue heaven?” she said before the workshop sponsored by the International Center for Islam and Pluralism (ICIP).

Another journalist insisted that Islamic law did not condone interfaith marriage, forgetting the fact that Musdah has experience and expertise in Islamic jurisprudence.

This is just a little illustration of how interfaith marriage remains one of the most complex and sensitive issues in Indonesian society, involving a potential tinder box of emotion-laden questions of right and wrong, the state and the individual’s right to choose a partner...

…In 2001, there was a report on a consortium that was working on a bill to legalize interfaith marriage for those wishing to retain their respective religions.

Nothing has been heard of the consortium or the bill since then. But even if it is realized, entrenched attitudes in society cannot be changed overnight.

Parents fear others’ assertions that they did not bring up their children “properly”, and condemnation from religious leaders.

But the fact remains that there are many couples of different religions out there, wanting to get married.

Many couples circumvent the law by getting married under one religion, but then practice their respective faiths.
Others with more financial resources opt to go abroad to wed, with Singapore being the favorite choice. But many often complain of the long waiting list and residential restrictions they have to deal with in order to wed in the island state.

Another problem with overseas weddings is that the couples still have to register their marriage in Indonesian civil courts, which could take a while and cost quite an amount of money.

To ease the complications, Wulan, a 27 year-old Catholic, opted to bribe officials to make a new ID card indicating that she is a Muslim so that she could marry boyfriend Doddy, a Muslim.

But she was lucky because both she and Doddy’s families are not rigid about religion.

Endah, 29, meanwhile, is torn between her family, who insists that she cannot marry Catholic boyfriend Eko unless the latter converts to Islam, and her feelings.

“I love my family, but I feel that my feelings are not being taken into account. Somehow, I’m being subordinated and marginalized as a woman, because things would be different if I were a man, as Muslim men can marry women of other religions,” she said.

Paramadina Foundation, an Islamic learning center known for promoting religious tolerance, used to provide services for couples of different religions to marry.

One of the couples who had married there was Devi, a Christian, and Budiman, a Muslim, who had an exchange of vows under Islam, followed by a civil registration and ending in a Christian blessing.

However, such a service is no longer available as threats from other parties made the foundation stop its service several months ago.

Kautsar Azhari Nor, a former member of the executive board at Paramadina Foundation, which is headed by prominent Muslim scholar Nurcholis Madjid, said that people here were still not ready for the idea of interfaith marriage.

…Muslim scholar Zainun Kamal said that the existence of Islam-based political parties had complicated the matter.

It is such a pity, he added, because the Koran states that Muslim men can marry Christian and Jewish women, and there is neither a prohibition nor approval for Muslim women to marry men from other religions.

“But our government has prohibited interfaith marriage so what else can we say,” said Zainun, who is willing to marry couples of different faiths if asked.


A second article from the same feature published by The Jakarta Post on 24 April 2005 is authored by the son of an interfaith marriage. The author discusses his own personal
experience and that of a Muslim friend who married his Christian girlfriend, following a reportedly arduous experience. The pertinent extracts follow in detail.

My father and mother have been married for 31 years and still counting. Throughout my life, I have never seen them quarrel or bicker because of their different beliefs. My father fasts during Ramadhan so that my mother feels more comfortable. My mother happily cooks extravagant meals for us during Christmas. Our family is as tight-knit as a family can get. Does the government really think that my parents should not have gotten married?

I also know a lot of interfaith married couples. Most of them are happy together. A few have divorced, but not one couple has said that they got divorced because of religious issues.

I will never forget how difficult it was for one of my best friends, who is a Muslim, to get married to his long-time girlfriend, who is a Christian.

The couple had been planning a wedding for months but could not find an official who was willing to conduct the ceremony because of their different faiths.

They even went to court because they had heard rumors that a judge could make a legal exception to the rule. The judge heard testimony from the couple and from their friends, including me, who could attest to their commitment to each other. After spending two months in the legal system and paying Rp 6 million, they obtained a court document that stated that “legally, they were allowed to wed.” However, when they showed this document to the civil registrar who would record their marriage, they were turned down. But, because these two were madly in love, they kept on pursuing avenues so that they could legally marry.

About a month later, my friend called me during lunch and asked me to cancel all my plans for the night because they had finally found an official who was willing to marry them despite their different religions.

When I arrived that evening, there were only five of us gathered in the room for the celebration: the bride and groom, a priest and two witnesses, including myself (‘Son of mixed marriage speaks up’ 2005, The Jakarta Post, 24 April http://www.thejakartapost.com/news/2005/04/24/son-mixed-marriage-speaks.html – Accessed 18 November 2008 – Attachment 9).

A February 2005 article by The Jakarta Post states the following with regard to government officials’ attitudes towards both mixed marriages (different nationalities) and interfaith marriages, and the embedded nature of “outdated” laws and regulations “left over from the Dutch colonial period”:

At present, 15 laws and government regulations on civil registration date back to the colonial era, when citizens were grouped according to religious belief, race and other social categories.

The most notorious of the regulations is Law No. 1/1974 on matrimony, which states that a marriage is legal only when the union is between couples of the same religion.

As a result, a foreign man who decides to marry an Indonesian woman -- or vice versa -- must follow one of the five religions officially recognized by the Indonesian government: Buddhism, Catholicism, Hinduism, Islam or Protestantism.
An Indonesian couple who adheres to two different faiths must either get married under one religion -- at least on paper -- and continue to practice their respective faiths, or go abroad to wed and register their union with the appropriate local registry upon their return.

That a couple of different faiths can get married abroad and register their marriage locally only highlights the inefficiency and impracticality of the regulation on interfaith marriage.

The notorious Marital Law, however, is unlikely to be retained in its current state, as an amendment is included as one among several priority bills to be deliberated by the House of Representatives soon.

Lawmaker and women’s rights activist Nursjahbani Katjasungkana said the proposed amendment sought to mend the existing law on matrimony, which she decried as discriminatory.

“The proposed amendment seeks to provide a clear-cut foundation for interfaith or intercultural marriages, or to determine whether or not such unions are in need of regulation from the government at all,” Katjasungkana told The Jakarta Post.

She said the law required that all marriages be registered with the country’s civil administration system, regardless of the couple’s religious or cultural backgrounds.

Changing the law, however, was only part of the solution, Gandi chairman Wahyu Effendi said.

“Amending the law is one thing, but changing the perspective of government officials who implement the law is another. Even if the amended law gives the go-ahead for intercultural or interfaith marriages, change will come slowly, as the officials are used to the old discriminatory practices,” he told the Post (‘Outdated laws inhibit marital bliss’ 2005, The Jakarta Post, 13 February http://www.thejakartapost.com/news/2005/02/13/outdated-laws-inhibit-marital-bliss.html – Accessed 18 November 2008 – Attachment 10).

A September 2004 article by The Jakarta Post discusses a documentary and book launch by “Kapal Perempuan, a women’s non-governmental organization, and the New Zealand Agency for International Development (NZAID)” which illustrates the varied experiences of couples, and their children, in interfaith marriages. The pertinent extracts follow in detail.

As the projector flickered, people in interfaith relationships told their stories.

Indah said she and her siblings were labeled illegitimate and mocked because their parents were of different religions.

A married couple claimed there was never a problem; the differences, in fact, helped their children become more tolerant.

Meanwhile, Hilmar told of being caught in the middle as both his parents and those of his girlfriend opposed their union.

“Both sides fear their future grandchildren will follow another religion than theirs. What’s marriage for then, finding (religious) followers?” the young man said in exasperation.
The documentary was part of the book launching and discussion for Tafsir Ulang Perkawinan Lintas Agama, Perspektif Perempuan dan Pluralisme (Reinterpretation of Interfaith Marriage Through the Perspective of Women and Plurality).

Published by Kapal Perempuan, a women’s non-governmental organization, and the New Zealand Agency for International Development (NZAID), the book tells of both successful and failed interfaith marriages, the perspectives of religious leaders and scholars from different religions, as well as the legal viewpoint.

Interfaith marriage is still one of the most complicated and sensitive issues in Indonesian society, involving a potential tinder box of emotion-laden questions of religious right and wrong, the state and the individual’s right to choose a partner.

Law No. 1/1974 on matrimony states a marriage is only legal when it is conducted according to one religion, which supports the stance of opponents of interfaith marriage.

Many couples circumvent the legal restriction by getting married under one religion, but then practicing their respective faiths. Others with more financial security opt to go abroad to wed.

In 2001, news circulated of a consortium -- with representatives from the government, non-governmental organizations and UNICEF -- that was working on a bill to legalize interfaith marriage for those wishing to retain their respective religions.

The plan has yet to be realized; even if it is, entrenched attitudes cannot be changed overnight.

Parents fear the assumption of others that they did not bring up their children “‘properly’“. Young people, knowing the “‘rules, immediately dismiss the notion of dating someone of another faith.

The new book further illustrates how women, often oppressed in the domestic sphere, also face more societal pressure than their menfolk in interfaith marriages.

… Muslim scholar Siti Musdah Mulia cited research showing that in unions of Muslim men with non-Muslim women, 50 percent of the couples’ children took their father’s religion.

Conversely, when Muslim women married non-Muslim men, the percentage was 80 percent.

“It indicates that a mother’s influence on the children’s religion is greater than the father’s. It means the perception that women are weak and easily converted to other religions is wrong,” she said.

According to Musdah, there is also a misconception of musyrik, or those who worship others than God, whom Muslims are prohibited from marrying.

“The common perception of musyrik is a non Muslim, whereas worshiping others can mean worshiping money, wealth, anything,” said Musdah, an expert staff at the Ministry of Religious Affairs and the secretary-general at the Indonesian Conference on Religion and Peace (ICRP).

She added that only three of the more than 6,000 verses in the Koran address interfaith marriage.
“I urge people to be more critical, don’t take religion for granted.”

Musdah also considers the restriction on interfaith marriage as a political vehicle of the government to accommodate the demands of religious institutions.

“It’s strange that for people who get married in other countries, their marriage is legal here although they are of different religions,” said Musdah Mulia.

Stranger still, Musdah said, was that after the Indonesian Ulemas Council (MUI) issued an edict in 1980 restricting all Muslims from marrying out of Islam, its Jakarta branch announced six years later that Muslim men could marry non-Muslim women.


4. Is there any impediment to a Muslim man converting to Christianity in Indonesia?

Sources indicate that conversion between recognised religious groups does occur and is permitted by law in Indonesia. However, conversion remains an extremely controversial issue in Indonesia. The Indonesian Council of Ulamas (MUI) – a semi-governmental advisory body – issued a series of religious edicts (fatwas) in 2005 which reportedly denounced pluralism, secularism, liberalism, interfaith prayer and interfaith marriage. Sources suggest that the intention of the MUI’s religious edicts is to morally guide Indonesian Muslims and society. As the US Department of State comments, the MUI’s “opinions are not legally binding”; however the government does consider them when implementing decisions and legislation. No reports of harm against individuals who have converted from one religion to another were found in the sources available. However, Christian churches have been attacked in recent years by radical Islamist groups reportedly fearing kristenisasi (a term used to describe Christian proselytisation in Indonesia) (US Department of State 2008, International Religious Freedom Report for 2008 – Indonesia, 19 September – Attachment 5; Menchik, J. 2007, ‘Illiberal but not intolerant: Understanding the Indonesian Council of Ulamas’, Inside Indonesia, October-December, No. 90 http://insideindonesia.org/content/view/1010/29/ – Accessed 25 November 2008 – Attachment 12; for information on church attacks and kristenisasi, see: Osman, S. 2008, ‘Religious tension simmers in Indonesia’, The Strait Times, 24 September – Attachment 22).

The US Department of State’s 2008 report on religious freedom in Indonesia states the following with regard to unforced conversion:

Unforced conversions between religious groups occurred, as allowed by law, but they remained a source of controversy. Some Muslims accused Christian missionaries of using food and microcredit programs to lure poor Muslims to convert. Some converts felt compelled not to publicize their conversions for family and social reasons (US Department of State 2008, International Religious Freedom Report for 2008 – Indonesia, 19 September – Attachment 5).

The October-December 2007 issue of Inside Indonesia published an article on the Indonesian Council of Ulamas (MUI), authored by a doctoral candidate at the University of Wisconsin’s Department of Political Science. The article discusses the MUI’s background, ideology and political influence. The pertinent extracts follow in detail.
The Indonesian Council of the Ulamas (MUI), the foremost state-sponsored Islamic body, issued a series of religious edicts (fatwas) in July 2005 against pluralism, secularism, liberalism, interfaith prayer, interfaith marriage and all alternative interpretations of religious texts. Many observers were shocked by the seemingly absolutist character of MUI’s positions. One fatwa denouncing secularism, pluralism and liberalism sparked headlines around the globe, not least because it compared the three concepts to an infectious venereal disease. In a play on words, MUI used the acronym SIPILIS to refer to the dangers of these three ideas.

…The significance of the fatwas should not, however, be exaggerated since many of them express concerns that have been raised many times before in Indonesia. Moreover, to understand these fatwas in their social and political context it is crucial to carefully analyse precisely how MUI itself understands the concepts of pluralism, liberalism and tolerance. MUI views itself as being tolerant but not liberal. While many observers often treat the two terms as nearly synonymous, MUI makes a sharp distinction between them.

…Why does MUI detest pluralism and liberalism? In MUI’s view, these beliefs lead society away from the straight path of Islam. Pluralism is the belief that all religions are of equal validity and can even be mixed. It teaches that the path to heaven can be found outside of Islam, and thus legitimises conversion to other faiths. MUI however, insists that Islam is the only path to heaven.

…MUI supports the freedom of religion in a qualified sense: while it allows the existence of all religions, it does not support the freedom to mix religions or to interpret Islam’s sacred texts in new ways.

…MUI is tolerant in its own way. It respects laws that protect the officially-recognised religious minority groups and, contrary to what some observers claim, does not seek to impose Islamic law on the Indonesian public. Although strengthening interfaith relations is a low priority for it, MUI is involved with efforts to work with Christians, Buddhists, and Hindus. Its Commission on Inter-religious Tolerance maintains relations with other state-sponsored religious bodies and is generally respectful of other faiths. Its leaders support the notion that political leaders should be held accountable to the public.

The MUI is not necessarily moving toward religious intolerance, at least not according to the standard meaning of the term. If tolerance means a ‘disposition to be patient with or indulgent to the opinions or practices of others’ (as the Oxford English Dictionary defines it) then the MUI is tolerant of Catholicism, Protestantism, Buddhism, and Hinduism in that it does not aim to suppress these religions. It does, however, want them to remain largely separate from the Islamic community. For instance, it does not want non-Muslims converting Muslims.

However, MUI is intolerant when it comes to Muslim sects that it considers heretical (Ahmadis and Shi’as) and Muslim intellectuals advancing alternative or progressive interpretations of Islamic texts. They are also intolerant when it comes to issues such as pornography and interfaith marriage. This intolerance stems from an opposition to a liberalism which they identify as the notion that individuals have rights that can trump the teachings of Islam. Freedom of religion when such freedom opens the door to conversion, apostasy, and the reinterpretation of sacred texts, is unacceptable to MUI (Menchik, J. 2007, ‘Illiberal but not intolerant: Understanding the Indonesian Council of Ulamas’, Inside Indonesia, October-December, No. 90 http://insideindonesia.org/content/view/1010/29/ – Accessed 25 November 2008 – Attachment 12).

A December 2007 article published by Al Jazeera discusses the reported the rise of “intolerant Muslim groups”, predominantly in poorer districts of Jakarta, that are allegedly causing concern for the government. The article also mentions an attack on a Christian
church by the Anti Apostacy Alliance (AAA) in West Java. Pertinent extracts follow in detail.

Indonesia is home to more Muslims than any other country, largely enjoying a reputation for tolerance and moderation.

But outbursts of violence from small but vocal minorities are challenging that perception.

In recent years radical groups have attacked bars, brothels and Christian churches. And that is causing concern for Indonesia’s government.

The Islamic Defenders’ Front (IDF) is one such group. Its members can be seen training in poor districts of the Indonesian capital, Jakarta.

…The government says the vast majority of Indonesians are opposed to less tolerant forms of Islam, yet the vocal minority still causes concern.

Atho Mudzhar, from the department of religious affairs, told Al Jazeera: “The radical groups are very small in number but are very noisy too.

The activities of radical groups are hard to miss. In a west Java neighbourhood, a Christian church bears the handiwork of the Anti Apostacy Alliance (AAA).

The church has suffered multiple attacks over a period of years.

The graffiti on the walls threatens to tear down the entire building.

The AAA is troubled by what it sees as an increase in conversions to Christianity.

“Conversions to Christianity in Indonesia, especially in Bandung and Jawa Barat, have become increasingly serious,” Muhammad Mukmin, from the Anti Apostasy Alliance, says.

“In my judgement I think it is a bigger evil than terrorism” (‘Radicals test Indonesia tolerance’ 2007, Al Jazeera, 27 December – Attachment 13).

Of interest is a 2007 featured article by Christian aid agency, Barnabus Fund; authored by Dr Patrick Sookhdeo who is the director of the organisation’s research arm, Institute for the Study of Islam and Christianity. The article discusses apostasy from Islam in the context of Qur’anic interpretation and the various schools of Islamic jurisprudence (Fiqh). Following is an extract relating to the Shafi’i School which is predominant in Indonesia, as well as Malaysia and the Philippines. As with most schools of Fiqh, the Shafi’i School reportedly “requires the death of all adult apostates”:

Like the Maliki school, the Shafi`i school (predominant in Indonesia, Malaysia and the Philippines), requires the death of all adult apostates, regardless of sex.

…Shafi`i teaching is also given by Nawawi in his book Minhaj-at-Talibin which is a standard work in Egypt, South India, Malaysia, and Indonesia. Nawawi defines apostasy as follows:

Apostasy consists in the abjuration of Islam, either mentally, or by words, or by acts incompatible with faith. As to oral abjuration, it matters little whether the words are said in
joke, or through a spirit of contradiction, or in good faith. But before such words can be considered as a sign of apostasy they must contain a precise declaration:

1. That one does not believe in the existence of the Creator, or of His apostles; or
2. That Mohammed, or one of the other apostles, is an impostor; or
3. That one considers lawful what is strictly forbidden by the ijma e.g. the crime of fornication; or
4. That one considers to be forbidden what is lawful according to the ijma; or
5. That one is not obliged to follow the precepts of the ijma, as well positive as negative; or

5. Is there state sponsored discrimination/maltreatment of Christians in Indonesia?

6. Does Indonesia provide state protection to persons who may be at threat from religious violence?

Reports suggest that while the national government respected religious freedom in practice, there is neglect at the local level with regard to the rights of religious minorities. According to the US Department of State “[m]any of the country’s policies concerning religion are enacted and enforced at the subnational level”. Minority Rights Group International (MRG) criticised the Indonesian government’s alleged “inability or unwillingness to hold those responsible for religious violence to account, and the growing political power and influence of religious extremists in Central and South Sulawesi”. Sources indicate that religious extremists are responsible for recent forced closures of Christian places of worship; while state apparatuses are criticised for their inaction with regard to the targeting of religious minorities (US Department of State 2008, International Religious Freedom Report for 2008 – Indonesia, 19 September – Attachment 5; for MRG’s 2008 Asia report, see: Eastwood, E. & Mihlar, F. 2008, ‘State of the World’s Minorities 2008 – Asia’, Minority Rights Group International website, 11 March [http://www.minorityrights.org/6138/state-of-the-worlds-minorities/state-of-the-worlds-minorities-2008.html – Accessed 1 December 2008 – Attachment 16].

A June 2008 article by ABC News in Australia reports the detention of more than fifty members of the extremist group, Islamic Defenders Front (FPI) after they attacked a religious tolerance rally in Jakarta. The police were highly criticised for their reported inaction, as the following extracts illustrate:

The perpetrators are almost never pursued by Indonesia’s police, but last weekend a group of militant youth from FPI went too far when they attacked a faith tolerance rally in the centre of Jakarta.

When images of veiled women being beaten with bamboo sticks as the police stood by were broadcast on TV, most Indonesians were outraged.
Still the police did nothing, but with pressure mounting from President Susilo Bambang Yudhoyono and others, 59 members of FPI have now been detained for questioning (Thompson, G. 2008, ‘Indonesian police arrest violent Islamic group’, ABC News, 4 June http://www.abc.net.au/news/stories/2008/06/04/2265391.htm – Accessed 1 December 2008 – Attachment 23).

The following extracts from the US Department of State’s 2008 report on religious freedom discuss the alleged discrimination at local level involving police/local official inaction; where “local authorities refused to authorize the building of churches and temples even though the groups managed to collect the necessary signatures”; and highlights the reduction of interreligious violence in Maluku and Central Sulawesi compared to previous years:

The Government generally respected religious freedom in practice. However, recommendations by government-appointed bodies and a subsequent government decree restricting the ability of the Ahmadiyya to practice freely were significant exceptions. In some cases the Government tolerated discrimination against and the abuse of religious groups by private actors and often failed to punish perpetrators, although the Government prevented several vigilante actions during Ramadan. Aceh remained the only province authorized to implement Islamic law (Shari’a). Many local governments outside of Aceh maintained laws with elements of Shari’a that abrogated the rights of women and religious minorities; however, no new Shari’a-inspired laws were known to have passed during the reporting period. Even though the central Government holds authority over religious matters, it failed to overturn any local laws that restricted rights guaranteed in the Constitution. Members of minority religious groups continued to experience some official discrimination in the form of administrative difficulties, often in the context of civil registration of marriages and births or the issuance of identity cards.

…Since the Government promulgated the Revised Joint Ministerial Decree on the Construction of Houses of Worship in 2006, implementation and defense of rights conferred under the decree have not always been enforced at the local level. During the reporting period, some Christian and Hindu groups pointed to sporadic acts of discrimination in which local authorities refused to authorize the building of churches and temples even though the groups managed to collect the necessary signatures. For example, in the regency of Langkat, North Sumatra, local authorities delayed Catholic officials from building a church, despite the officials having met the legal requirements to do so. The issue was ultimately solved through mediation with the FKUB [Forum for Religious Harmony]. While local FKUBs are designed to serve as interfaith forums, they were often dominated by the majority religious group, which could oppose or stall provision of licenses to minority groups. In several cases in West Java, small churches faced difficulties obtaining licenses, frequently due to opposition in the FKUB.

…During the reporting period, there were no reports of religiously motivated violence in Maluku and North Maluku. Religiously motivated violence was at its height in the late 1990s and had continued at a lesser scale in subsequent years.

Leaders of both the Muslim and Christian communities and the Maluku provincial government continued to demonstrate their strong commitment to ease religious tension, which had led to significant violence in past years, and to rebuild. For example, the Maluku Police Chief visited mosques and churches to promote community reconciliation among Muslim and Christian communities. Several government projects to replace damaged churches, mosques, and homes continued during the reporting period. The local government implemented economic recovery and conflict rehabilitation programs using a $300 million (Rp. 2.3 trillion) presidential allocation. The Maluku government took steps to strengthen coordination with civil society around social problems arising from local conflict and terrorist
violence during the reporting period. In March 2008 it held a workshop on “National Unity Building and Awareness of Conflict and Terrorist Threats” aimed at developing bridges between civil society and the local government for dealing with potential conflicts; however, these steps did not always include grassroots communities.

In contrast to previous reporting periods, there were no major incidents of violence in Poso Regency, Central Sulawesi. Police cracked down on and arrested several suspects accused of terrorism and other violent crimes related to interreligious strife in Central Sulawesi from previous reporting periods. Local police in Central Sulawesi protected local churches and prayer houses during religious services. Local residents expressed optimism that the cycle of violence has slowed (US Department of State 2008, *International Religious Freedom Report for 2008 – Indonesia*, 19 September – Attachment 5).

In its 2008 report, covering events for 2007 in Indonesia, Human Rights Watch (HRW) states the following with regard to religious freedom:

> Religious extremists forcibly closed more places of worship of religious minorities, with little response from local authorities. On June 3 a large group of people stormed a Sunday school session of a Christian congregation in Soreang, West Java, assaulting the pastor’s wife and a teenager, and destroying church property. A week later the same group attacked a church in Garut, forcing the pastor and his congregation to flee for safety to another village.

> In September in Malang, East Java, 41 people were convicted of blasphemy against Islam and each sentenced to five years’ imprisonment. The defendants had been arrested in May for making a videotape denouncing the Quran. Those convicted were all members of the Lembaga Pelayanan Mahasiswa Indonesia, a mainly student organization active in disaster relief (Human Rights Watch 2008, *World Report – Indonesia*, 31 January – Attachment 17).

In its 2008 world report, Minority Rights Group International (MRG) reported on Indonesia’s treatment of minorities, including Christians, during 2007 as follows:

> Rising religious tension in Indonesia, the most populous Muslim-majority state in the world, was reflected in the May 2007 report of the US Commission on International Religious Freedom. The state was placed on the Commission’s ‘watch list’ for countries that require close monitoring, highlighting the Indonesian government’s inability or unwillingness to hold those responsible for religious violence to account, and the growing political power and influence of religious extremists in Central and South Sulawesi. At least nine Protestant churches, four Ahmadiyya mosques and one Hindu temple have been closed or damaged in areas of West Java, North Sumatra, South Sulawesi and West Nusa Tenggara as a result of the influence of ‘extremist’ groups, which incited mobs and/or intimidated local officials in the last year, said the report.

> In July 2007, 17 Christians were jailed under anti-terrorism laws for the murder of two Muslims. According to International Crisis Group, the two Muslim fishmongers were attacked in Poso, Sulawesi, in September 2006, by a mob angry at the execution in the same year of three Christians convicted of leading a group that killed hundreds of Muslims at a boarding school during inter-religious violence in Poso in 2000.

> In its August 2007 report the Committee on the Elimination of Racial Discrimination (CERD) expressed concern that under Indonesian law individuals are obliged to mention their faiths on legal documents such as identity cards and birth certificates, and that those wishing either to leave the document blank or to register under one of the ‘non-recognized’ religions, reportedly face discrimination and harassment. CERD also noted that couples involved in

A July 2007 report by the Asian Human Rights Commission (AHRC) accuses Indonesian authorities of failure to investigate incidents of “intimidation and attacks by unidentified groups” against religious minorities in Surakarta, Central Java. The pertinent extracts follow in detail.

The first case reported involves a seminar conducted by the Interaction of Solidarity between Elements of Society (INSAN-EMAS) working along with the Indonesian Foundation for Legal Service (LPH YAPHI). INSAN-EMAS is comprised of several elements of religious factions that would like to promote nonviolence in society to find ways to prevent increasing attacks on places of worship. The two organizations invited the community, particularly the bureaucrats of the village council, to participate in a seminar entitled “Strengthening the Foundation of Civil Society without Violence” on 21 June 2007 at the Taman Sari Restaurant in Colomadu, Surakarta. At around 11:30pm on 20 June 2007 the event planners received a phone call from an unknown person who claimed that he represented the Laskar Umat Islam Surakarta (LUIS). The caller threatened them to cancel the event because one of the speakers, Dawan Raharja, is a sinner and is forbidden from entering Solo (Surakarta). When the planners tried to explain that Mr. Raharja was unable to attend, the caller said that Mr. Raharja had to repent because he was going to liberalise Islam. Before hanging up, the caller also mentioned another speaker, Arie Sujito, as being a Marxist and is therefore forbidden from spreading out Communist values.

At 7:30am, on the following day, the head of sector police for Colomadu, Kridho Baskara, came to the Taman Sari restaurant and asked the owner to cancel the seminar and he barred any food from being set up. The owner, Ms. Ismail refused to comply, and Mr. Baskara became angry and slammed against the table. Fearful of the situation, Ms. Ismail called the event planners and told them that the police were threatening her staff by coming into the kitchen and preventing anyone from cooking. The head of the event planners Ms. Haryati Panca Putri came to speak with Mr. Baskara and tried to reason with him that he had no right to cancel the seminar. Mr. Baskara was about to relent, when in came the security intelligent officers of the Karanganyar police department (Kasat Intelkam) who refused to let the seminar begin. After discussion, they finally negotiated to have the seminar finish by 11:30am. But during the seminar the police came with two trucks full of officers in security gears carrying shields and batons. To explain the reasons for the police battalion, the head of Karanganyar Police Department stated that they were protecting the participants because they feared attacks by LUIS (Laskar Umat Islam Surakarta). According to eyewitness, as soon as the police arrived at the place of seminar, they interrupted and ordered the participants to leave the building. Due to the disturbance, INSAN-EMAS along with LPH YAPHI filed a formal complaint with the Karanganyar Police Department.

The second case involved the Christian Church of Indonesia, “Kristus Gembala” or “Christ the Shepherd” located in Surakarta. The followers of this Church were renting a house in Yos Sudarso Street No. 367, Dawung Wetan, in which they used as a place of worship. On 3 June 2007, they were conducting a mass that started at 5pm, when at around 5:40pm, while they were praying, they suddenly saw several young people dressed in “ninja” suits shouting “Allah Akbar, God is great, everyone get out, break up the mass, there is no meaning for you to pray like that.” Next, they came into the house and turned off the lights and kicked the chairs while screaming at everyone to get out. When they turned the lights back on, five of the men approached Priest Fatizanolo Waruwu and interrogated him by asking for the Church’s
permission letter to conduct mass at this house. The priest refused to present to them the letter and asked for their identities. They informed the priest that there are new regulations now about practicing religion. Before leaving, they broke the electric fuse box and they said: “Just so you all know we have closed down many churches, such as the Tiberias Solo Church, and Mayor Bambang cannot do anything about this. In three days time, we will bring down more churches, we are ready for thousands, and will not be responsible for anything that happens.”

In regards to the forced disassembly of the mass held by “Kristus Gembala” Christian Church, Priest Fatizarolo Waruwu has taken a pro-active approach by reporting the incident to Serengan police office and the Security Intelligence Police Department (Kasat Intelkam Poltabes) of Surakarta. He has also submitted a report to the Ministry of Religious Affairs, in which he asked permission to use the aforementioned house as a place of worship. However, the minister is unable to entertain such a request because the participants have to first gain the approval from the local community in order to build any place of worship.

The third case involved a prayer session that was taking place on 21 June 2007 at Mr. Buntoro’s house in Semanggi, Surakarta. At 7pm, when prayers were about to begin, a mob of people suddenly appeared at the house shouting for everyone to get out or they will bring a larger crowd to intimidate them. These people were clad in what appeared to be black and white “ninja” suits. They asked Mr. Buntoro for his permission letter to conduct the prayers. However, he informed them that it was not a requirement if people are just conducting a prayer. The neighbours heard the commotion and came to witness the incident, which made the crowd in front of his house become bigger. Mr. Buntoro called the police and he also informed the head of the village council. When the police came, they did not arrest these people and were rather reluctant to place any forceful warning on them to stop terrorising the community. The mob of “ninja” clad people eventually left but they warned Mr. Buntoro that they will come again with a large mass of people (‘INDONESIA: Government failed to respond to threats to civil society and religious group in Surakarta, Central Java’ 2007, Asian Human Rights Commission (AHRC) website, 3 July http://www.ahrchk.net/ua/mainfile.php/2007/2468/ – Accessed 1 December 2008 Attachment 18).

7. Are there any barriers to relocation elsewhere in Indonesia? Are there parts of Indonesia which are more densely populated by Christians?

The subject of internal relocation within Indonesia was addressed in Research Response IDN31354 of February 2007. Question five of this response addresses potential restrictions regarding relocating within Indonesia. Information is provided on the Indonesian identity card (the Kartu Tanda Penduduk or KTP) which reportedly records any relocation from one subdistrict to another. However, a Jakarta Post article indicates that obtaining a Jakarta KTP involves a rigorous process; reportedly encouraging officials to “extort money from job seekers in need of a local ID card” (RRT Research & Information 2008, Research Response IDN31354, 14 February – Attachment 19; for The Jakarta Post article, see: ‘Jakarta magnet’ 2006, Jakarta Post website, 4 November http://www.thejakartapost.com/yesterdaydetail.asp?fileid=20061104.E01 – Accessed 14 February 2007 – Attachment 20).

On 17 November 2007, the Organisation of Asia-Pacific News Agencies published a special report by Mohd Nasir Yusoff on the alleged crack-down against “illegals” in Jakarta. Administrators in Jakarta are reportedly increasing identity checks at “all 28 entry points including public transportation stations on land and sea”. The pertinent extracts follow:
The capital city is burdened by thousands of ‘illegals’ especially after each Hari Raya, and Jakarta’s administrators have decided to put a stop to this menace. The administrators of this city of 8.7 million inhabitants and covering 650 square kilometres no longer want to receive those from other parts of the archipelago who have no education background, expertise and any guarantee that they will be employed or even a place to stay.

Efforts have been beefed up including checks at all 28 entry points including public transportation stations on land and sea. Apart from that, checks are also being conducted on those putting up with relatives who just returned from their hometowns after celebrating Hari Raya. The operation known as ‘Operasi Yustisi’ also involves house-to-house search especially in squatter colonies to round up ‘newcomers’ without identity cards with Jakarta address.

Local media reports state that almost 1,000 of these ‘illegals’ were caught and fined or caught and returned to their hometowns. Yet for the thousands of outsiders inundating the city after Hari Raya, an opportunity for a better life is the one that matters and the laws don’t faze them. It is the same like in the case of thousands who illegally enter Malaysia risking their lives on small boats goings against dangerous currents.

Other than those like Nunung hunting for employment, thousands congregate on the streets selling newspapers, cigarettes and drinks and their presence are more evident after each Hari Raya. Also women carrying babies and blind husbands led by their wives can be seen begging. Though many are adamant not to return home until they find employment, yet they are at a loss as they do not have any relatives who can assist and when luck doesn’t favour them, they become part of squatter and vagrant statistics in this city.

The data provided by Jakarta’s administrators indicate that in 2006 those who returned to their home town during the festive period numbered 2.4 million but those who returned to Jakarta after the festivities were 2.48 million, an increase of 80,000 people, which would further increase population density from the current 13,000 people for every square kilometre. An original resident of Jakarta noted that it was only appropriate for Jakarta Administrators to shoo away these people as they contribute to social woes and congestion. “My mother’s home in Kuningan has fallen victim to these outsiders when two families came out of nowhere and set up a shed and several days later they started selling drinks making the road in front of the house even more narrower,” he said. When Jakarta doesn’t want to be inundated by these ‘illegals’, what else Malaysia? (Yussoff, M. 2007, ‘Illegals’ a Menace in Jakarta”, Organisation of Asia-Pacific News Agencies, 17 November – Attachment 21).

The US Department of State’s 2008 report on religious freedom provides general information on religious demography in Indonesia. Potential barriers to internal relocation are reflected in certain regencies enacting “Shari’a-inspired regulations” in recent years. Though Aceh “remained the only province for which the central government specifically authorized Shari’a law”, other regencies/provinces have passed certain Shari’a-inspired ordinances. The regencies/provinces mentioned are Padang, West Sumatra; South Sulawesi; Banten, West Java; and Pamekasan, Madura Island, East Java. The report states that in February 2008, the Minister of Home Affairs said that the “so-called Shari’a-inspired ordinances were merely public order laws passed to deal with social problems such as drinking and prostitution”. The pertinent extracts follow in detail.

The Ministry of Religious Affairs estimates that 19 million Protestants (referred to locally as Christians) and 8 million Catholics live in the country. The province of East Nusa Tenggara has the highest proportion of Catholics at 55 percent. The province of Papua contains the
highest proportion of Protestants at 58 percent. Other areas, such as the Maluku Islands and North Sulawesi, host sizable Christian communities.

…Many of the country’s policies concerning religion are enacted and enforced at the subnational level. Since October 2005 the regional representative office of the Ministry of Religious Affairs in West Nusa Tenggara upheld a ban on 13 religious groups, including the Ahmadiyya, Jehovah’s Witness, Hare Krishna, and 9 forms of Aliran Kepercayaan as being deviations of Islam, Christianity, or Hinduism. The West Nusa Tenggara Board for Monitoring Mystical Beliefs in Society (Pakem NTB) closely monitored Ahmadiyya members in Mataram during the reporting period. There were no reports, however, on how the restriction affected the other banned groups in the region. In West Java a joint decree issued in January 2005 in the Kuningan regency restricted the propagation of Ahmadiyya teachings. On May 5, 2008, Pakem West Java recommended municipal authorities ban Ahmadiyya. On May 6, 2008, the Mayor of Cimahi, West Java, issued an order to ban the religious group.

Aceh remained the only province for which the central government specifically authorized Shari’a law. Presidential Decree 11/2003 formally established Shari’a courts in Aceh; however, according to data from the Indonesian Women’s Coalition, there have been no new Shari’a ordinances implemented since 2006.

Although not specifically classified as Shari’a ordinances, many local governments across the country maintained Shari’a-inspired regulations. According to the Indonesian Women’s Coalition, local governments throughout the country have issued at least 100 such ordinances. Many Muslim scholars and human rights activists claim that these ordinances have created or increased discrimination against women. In many cases these laws require Muslim women to wear headscarves in public; mandate elected Muslim officials, students, civil servants, and individuals seeking marriage licenses to be able to read the Qur’an in Arabic; and prohibit Muslims from drinking alcohol and gambling. Some of these laws were attempts to deal with local social problems, and in many cases the laws were not enforced.

Civil rights activists assert that such Shari’a-based ordinances violate the Constitution and have called on the Government to exercise its constitutional jurisdiction to revoke or review these ordinances. On February 14, 2008, the Minister of Home Affairs claimed Shari’a bylaws did not exist and that the so-called Shari’a-inspired ordinances were merely public order laws passed to deal with social problems such as drinking and prostitution. With regard to Aceh, the Minister said the disputed regulations only applied to Muslims, obliging them to conduct their daily lives in accordance with Islamic teachings.

During the reporting period in Padang, West Sumatra, the mayor instructed all Muslim students to wear Islamic dress on Fridays and encouraged Muslim city officials to do so as well. Many, however, did not comply, and there was no penalty for noncompliance.

Several regencies maintained regulations preventing Muslim women from receiving government services if they were not wearing headscarves. These regulations remained on the books but were routinely not enforced.

Several regencies in South Sulawesi have Shari’a laws on the books. In Bulukumba Regency, South Sulawesi, the laws, which apply only to Muslims, include obligatory Islamic dress, a requirement to read the Qur’an in Arabic, regulations on tithing, and a ban on liquor. In most cases there are no sanctions for noncompliance, and the laws are not enforced.

Regulations in the Pamekasan Regency of Madura call for Muslim civil servants to wear Islamic attire and the cessation of both public and work activities during the call to prayer.
Reportedly, however, not all residents obeyed this regulation, and there was no clear sanction for non-compliance.

Tangerang Regency in Banten Province bans prostitution and public displays of affection. These bans apply to both Muslims and non-Muslims. The controversial prostitution clause vaguely defines a prostitute as anyone drawing suspicion based on his or her attitude, behavior, or dress, and places the burden on suspected women to prove their innocence. Consequences spelled out by the ban include a fine of up to $1,655 (Rp. 15,000,000) or jail terms of up to 3 months, and a return to their family for unspecified “guidance.” Advocacy groups challenged the constitutionality of Tangerang’s regulation, but in March 2007 the Supreme Court upheld the prohibition. The ban is no longer implemented, according to rights activists (US Department of State 2008, *International Religious Freedom Report for 2008 – Indonesia*, 19 September – Attachment 5).

**List of Sources Consulted**

**Internet Sources:**

**Databases:**

FACTIVA (news database)
BACIS (DIAC Country Information database)
REFINFO (IRBDC (Canada) Country Information database)
ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)
RRT Library Catalogue

**List of Attachments**


