

Briefing

The WAHID Institute 2008 Annual Report
Religious Pluralism in Indonesia

Tracing the Footsteps of an Increasingly Divided Nation



The WAHID Institute
Seeding Plural and Peaceful Islam

**Summary
Seminar and Launching
The WAHID Institute 2008 Annual Report
Religious Pluralism**

**TRACING THE FOOTSTEPS OF AN
INCREASINGLY DIVIDED NATION**

Keynote Speakers:

1. Ildal Kasim (Head of KOMNAS HAM - National Commission on Human Rights)
2. Prof Azyumardi Azra (Professor at UIN Jakarta)
3. Kamala Chandrakirana (Head of KOMNAS PEREMPUAN - National Commission on Violence Against Women)
4. Ahmad Suaedy (Executive Director at the WAHID Institute)

**Jakarta, December 10, 2008,
Hotel Bintang, Jl. Raden Saleh 16, Jakarta
Time: 12.00 - End**

Briefing

The WAHID Institute 2008 Annual Report Religious Pluralism in Indonesia

“Tracing the Footsteps of an Increasingly Divided Nation”

1. Throughout 2008, the constitutional guarantee for freedom of religion and faith as an individual and non-negotiable right has been violated several times. Several anti-pluralism cases involving rights violations, violence and conflict were not satisfactorily resolved. The emergence of an overly enthusiastic religious identity and the tendency for some social groups to evict others who hold different religious interpretations or views, as well as the lack of law enforcement from the government (local and central) has only perpetuated this phenomenon.
2. Government submission to some groups' demands to ban or restrict others due to their so-called religious deviance has only increased the power of these groups, prompting them to take similar action whenever there is a difference of opinion. June 9, 2008 deserves a mention here, as an example of the government's surrender to such demands when crowds surrounded the Presidential Palace to demand the disbanding of Ahmadiyah. The government fulfilled their demands by issuing the joint decree. Although it did not firmly ban Ahmadiyah, it imposed restrictions, monitoring, and if necessary, could be used to ban Ahmadiyah. More importantly, however, is that such an event has become an example for others where mobilization of the masses can be used to force the government to take action that could be conceived as a constitutional violation. This instance marks the emergence of rifts within society over difference of religion and belief. With this kind of submission the government is only contributing to and investing in the future disintegration of the nation
3. The June 9 case was a continuation from the 'Bloody Monas Tragedy' of June 1, where the diverse AKKBB alliance (National Alliance for Freedom of Religion and Belief), which consists of 70 NGOs and religious groups, was blindly attacked. Attackers were from the FPI (Islamic Defenders Front) based KLI (Islamic Brigade Command), but were led by the HTI (Hizbut Tahrir Indonesia) figure, Munarman. AKKBB was attacked when holding a peaceful gathering in celebration of the anniversary of Pancasila. More than 70 were wounded, including women and children. The case has partly been dealt with, with both Munarman and Rizieq Shihab being sentenced to 1.5 years behind bars. It is important to note that when police issued a warrant for his arrest, Munarman refused to give himself up, choosing instead to run from the law. In hiding, he released a statement on VCD – much like

Osama Bin Laden – which in essence ordered the government to immediately disband Ahmadiyah. The government eventually met his demand, and not long after they released the joint decree, Munarman surrendered. Unfortunately, Munarman's flight was not taken into consideration when the judges handed down his sentence. This would suggest that the law endorsed Munarman's running from justice and his making demands as a barter for his surrender.

4. These cases could be potentially dangerous in the future in light of the increasingly frequent and more potent violence/conflict, and the weak government response. These instances could very well be the trigger for the disintegration of the nation. Confusion and disorder is only perpetuated by those religious institutions funded by the state, such as MUI (Indonesian Council of Ulama) and the Department of Religious Affairs, which tend to side with certain groups and discredit others. They often claim that their interpretation is the sole valid interpretation, and act as the spokesperson for only a few specific groups within Islam. MUI *fatwa* on deviance against specific groups are often used to legalize violence and stereotypical labeling. Their *fatwa* detailing the criteria for deviant groups is often used by certain groups and local MUI branches to find deviant groups in their midst, and then issue *fatwa* of deviance.
5. The government, particularly the Department of Internal Affairs and the Department of Religious Affairs, has made sincere efforts to give responsibility to local governments by forming FKUB (Forum for Religious Harmony) through the joint regulation of the Minister of Internal Affairs and Minister of Religious Affairs No 9 and No 8/2006. This joint regulation ensures that there are no religious communities unable to worship because they do not have a house of worship. It also ensures that local governments must facilitate the establishment of houses of worship. Unfortunately, implementation of the regulation has been somewhat problematic. Further, the regulation details no sanctions for local heads who fail to implement it. It thus tends to be used only to secure allocation of funds from the local budget (ABPD) but is not accompanied by sufficient control, evaluation and monitoring, and thus runs the risk of being misused (abused), especially for the interests of specific groups.
6. The guarantee for freedom of religion/belief is quite explicitly detailed in the constitution, such as in article 29 verse (2), and article 28 (e). However, this is not entirely reflected in reality, specifically in regulations and government policy. However, a more significant issue lies with article 28 (j) which is frequently used to justifying state discrimination on the basis of exception. Here, the state's function as an institution which should protect, guarantee, fulfill and serve the basic rights of its citizens, particularly the right to adhere to a religion of belief, is often ambiguous. On the one hand the state is required to protect, guarantee and fulfill these rights, yet on the other hand there are groups who use article 28 (j) to restrict and control the beliefs of others.

Normatively speaking, the ICCPR does suggest that freedom of expression can be restricted by legal regulations for the sake of society's security, law and order, health or morality, or for the fundamental rights and freedoms of others. However, this does

not intended to curb a person's religious beliefs, let alone to criminalize faith. Rather, it was intended to protect that person's right to religion and belief. As a result, the government must clarify that article 28 (j) not be interpreted to restrict a person's religious beliefs.

7. In addition, regulations under the constitution are not entirely in line with the constitutional spirit on guaranteeing freedom of religion and belief. There are, admittedly, Law No 39/1999 and Law 12/2005 on ICCPR Legislation that carry this spirit, yet there are still a number of regulations that continue to discriminate and threaten freedom of religion and faith. The most problematic is Law No 1/PNPS/1965 on Prevention of Religious Defamation and Abuse. The essence of this law was transformed into article 156a of the criminal code. In practice, it is used more to threaten religious freedom, not only religious expression, but actual religious belief itself. Similarly with Law No 23/2006 on Civil Registry Administration, which still has not freed itself from the paradigm of 'recognised religions' and 'unrecognised religions'. In reality this paradigm discriminates against citizens on the basis of their religion or belief. Oddly enough, this law continues to be preserved. It is the state's obligation to serve and recognise the existence of its citizens, purely because they *are* citizens, and not because they adhere to a specific religion or faith. If the current perspective is not corrected Indonesia will, given time, be marked by social classes based on religion and belief. This is totally contradictory to the 1945 constitutional spirit which holds that all citizens, whatever their religion or belief, are viewed equal in the eyes of the law and government.
8. Consequently, to date there have been no meaningful changes to regulations, particularly those on religious freedom. In fact, regulations such as the joint decree on Ahmadiyah are clear step backwards. Even more so with the South Sumatran Governor's decree that banned Ahmadiyah from the province. Indeed, this year saw the legislation of the Eradication of Ethnic and Racial Discrimination Law, yet its implementation is still being tested as there are worries that it is one of those few laws in Indonesia which are used purely as tools of international diplomacy, but are not implemented at all. Although this law contains promises of eradicating discrimination, it is still plagued by problems. For instance, if society (an individual or corporation) is found guilty of discrimination they face legal punishment, yet there is no sanction whatsoever for the governmental should they discriminate, except that citizens may file a suit.
9. There are inequalities in the state's role in protecting, guaranteeing, fulfilling and serving the fundamental rights of its citizens. Part of society receives extraordinary rights to religion and belief, not only in terms of facilities for worship and aid, but also in terms of access to economic and legal services. The state facilitates all these services to help fulfill and implement the religious teachings that these members of society follow. Yet on the other hand, there are still groups whose fundamental rights to self-existence are threatened. This questions the state's willingness to receive citizens no matter what, and to facilitate their civil rights without considering what religion or faith they might adhere to. There is quite a clear and substantial distinction

in interpretation of article 29 of the 1945 constitution. Certain religious groups use this article to demand considerable facilities from the state, challenging the state to indeed guarantee that religious communities can worship according to their religion or belief. However, on the other hand there are citizens who use this article in their struggle to place themselves on par with, and no longer below, all other citizens.

10. An increasingly unavoidable phenomenon has emerged this year whereby religion has risen to control public action and regulations. This rise of religion to the public realm has been less than pleasant, full of inter-religious competition and violence. This cannot be separated from the increasingly powerful role of MUI. Unfortunately, the strengthening of MUI has gone hand in hand with the strengthening of fundamentalist groups. It seems as if the religious agendas of these groups are channeled through MUI, in a mutually beneficial process. MUI has become so strong that it can no longer be equated with other Islamic social organisations. It has become a 'semi-governmental' institution not because President Susilo Bambang Yudhoyono said he would follow MUI's *fatwa*, but because of MUI's position as stated explicitly in Law No 40/2007 on Limited Companies and Law No 21/2008 on *Syariah* Banking. It is MUI's strong role in *syariah* economic affairs that makes it different from other social organisations such as NU and Muhammadiyah. MUI's relationship with Islamic fundamentalists on the one hand, and its power in influencing regulations on the other, requires serious attention.
11. The number of religious cases that emerged throughout 2008 is quite high at 227.¹ This means that every month (January – November) a minimum of 16 cases emerged, some involving the government and its citizens, others occurring between citizens. On the one hand, this suggests that cases of deviance, violence, rights restrictions, repression, and discrimination in responding to religious issues have not decreased over the years, on the contrary, they have increased. This strongly indicates that both in the center and in the regions, religious issues have often been manipulated because of their significant influence on inter- and intra-religious relations.
12. Several cases this year have been witness to the development of a religious sensitivity within society. This sensitivity is often used to stir anger over developments considered out of line with certain religious beliefs. It is thus understandable how diversity and difference in religious beliefs, which has for so long been an acceptable norm, has now taken on an energy that enables some to regard others as deviant, and to attack and destroy others' property. It is quite a concerning development as it has the potential in the long term to change Indonesia's current religious image into one of tension, suspicion and mistrust.
13. Several religious cases from 2008 must be seen in light of political developments. In the current situation where politics are becoming increasingly more open, religion is highly susceptible to becoming a political commodity. Religion is often politicized in issues of democratization. Certain groups have interests in using religious issues for political movements. The commoditization of religion often occurs during the

¹Compare this with *Setara Institute's* 2007 report.

formulation of regulations or other policies. For instance, the legislation of the Pornography Law was not only a product of the strength of fundamentalist groups in urging parliament to legislate it. Rather it was also connected to political opportunism. A law is sometimes formulated purely for the sake of following political rhythms and currents, especially in the lead up to the 2009 general elections when political parties compete for popularity, and thus become accommodative and willing to listen to society. This often brings religion into the spotlight, but behind it lies the latent interests of political and economic power.

II. Recommendations

Based on the various religious issues and cases from throughout 2008, the Wahid Institute makes the following recommendations to the relevant parties:

1. Government

a. The government must be much more firm in dealing with perpetrators of discrimination, threats of violence, and discrediting of specific groups solely on the basis of different religious interpretations. The government must not side with any group over truth of interpretation by mobilizing government apparatus to control, threaten, implement bans, or act violently. The central government should also explicitly state the government's (central and local) neutral position in religious matters for the sake of abiding by the constitution. This needs to be accompanied by objective monitoring and evaluation, and explicit sanctions for those violating or failing to uphold the constitution.

b. The government must give firm and clear policy to state-funded religious institutions so that funds are not used only for the interests of one group or religious interpretation which discredits and discriminates against other groups. In reality, unfair siding and misuse of society's money only invites tension, violence and discrimination which also implicates the government's lack of neutrality. If not, the government will be abusing the constitution by using society's money for the interests of specific groups.

c. There is quite a significant tendency for tension and even violence to break out between groups, not only between different religions but also between different groups within the one religious community, caused largely by a lack of knowledge about other religions' religious traditions, customs and doctrines. The government must take the initiative to facilitate inter-religious education for children by inserting material into the school curriculum. Thus, kids will not only be educated in their own religion (customarily through indoctrination and discrediting of other groups) but will learn about and understand the traditions, customs and doctrines of other religions and groups. This is vital in building tolerance and solidarity between fellow Indonesians, Indonesians who have always been harmonious in their plurality.

d. The Indonesian government must review and adjust all regulations not in line with human rights, especially those concerning freedom of religion and belief. This is important because there are still a number of regulations that are paradoxical both in

terms of substance and implementation. If not, Indonesia will always find herself trapped in a dilemma over regulations. The courage this requires will test whether the state is serious in protecting religious freedom or not. Further, for those problems with the constitution, particularly article 28 (j) which is often used as justification for arbitrary and unjust actions, the government must make it clear that such articles not be used to discriminate against or to criminalize a person's religious beliefs. The use of this article must also adhere to human rights principles. Above all, the government must stick tightly to maintaining a neutral attitude in religious affairs. It is important this be emphasised because in a number of religious cases, especially those involving conflict over houses of worship, (local) government has been very biased. Bureaucratic neutrality is a characteristic of a clean and responsible government.

2. Law Enforcement Apparatus

a. Law enforcement apparatus, especially the police, must be more courageous in taking action against anyone who perpetuates violence, even if in the name of religion. This needs to be stressed because in several cases police have often arrived late or have even allowed violence to occur. The police must not victimize victims, but give them protection. There has been a recent impression that police are hesitant in facing those groups who resort to violence in the name of religion. Nevertheless, we express full appreciation to law enforcement in having the courage to arrest and try Rizieq Shihab and Munarman, who were proven guilty of violence in the name of religion. Police in Lamongan have also begun to work up their courage, as indicated by their arrest of the local FPI leader who has continually spread violence. These positive steps need to be supported if we wish to prove that the law is still enforced in this country. The law must not be held hostage by any power, and it is the law enforcement apparatus that can prove this.

b. It is also important that local government maintain a neutral attitude and not bow down easily to pressure from specific groups. The local government's role is basically the same as the central government – to be just and neutral in enforcing the law and to not surrender to pressure from specific groups.

3. Political Parties

In the lead up to the 2009 general elections, political parties must promote religious maturity within society. This can be done, for instance, by not turning religious issues into political commodities. Political parties must not stir society's religious emotions in order to obtain support in the 2009 election.

4. Society

Social groups concerned with pluralism, enforcement of human rights, and promotion of inter-religious dialogue must continue their efforts to disperse inter- or intra-religious tensions. This is possible through mainstreaming programs of tolerance and seeding inter-religious understandings. Such efforts must be unceasing, as religious maturity is not achieved instantaneously but through a long, constant and focused process. Religious maturity must be given serious attention. Provocation from groups who continue to ignite hatred must be avoided and countered. Religious leaders play

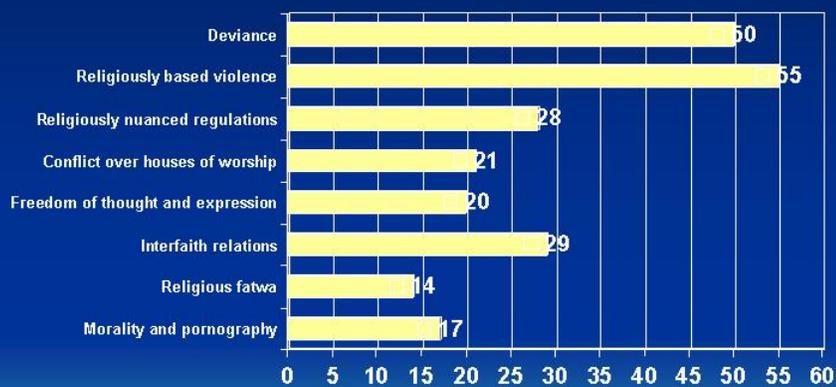
strategic roles in this. Unfortunately though, many religious leaders fall victim to such provocation. Intensifying communication and delivering religious messages politely can be one way out. With religious maturity, society will not be easily provoked by religious jargon and issues. It is all the more important that this be voiced in the next few months before the 2009 elections.

Finally, all elements of this nation must be aware that we are facing quite serious challenges. Our nation is divided because we have not been entirely successful in managing our diversity. We can only be healed if we return to the country's primary mandate and original aspirations (the constitution). Without this, we will only become further divided and the dreaded unimaginable will occur. Hopefully, next year this nation will be more aware of the errors of the past.

2008 Annual Report on Religious Pluralism

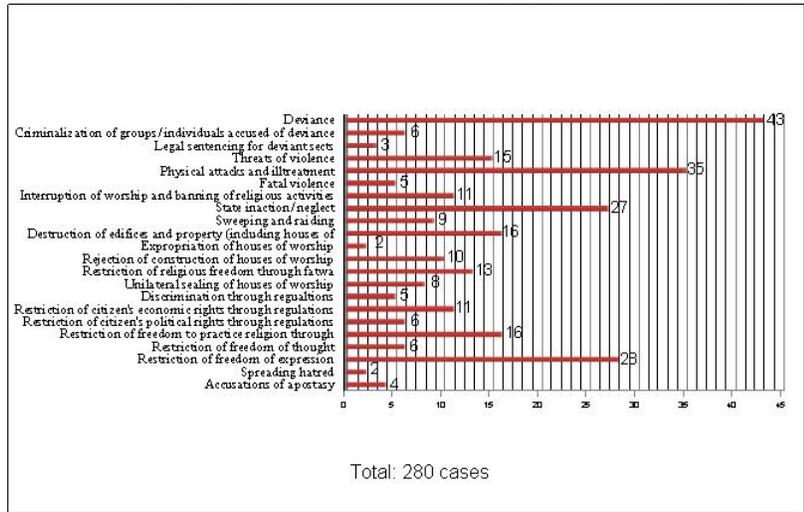
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PLURALISM CASES IN 2008

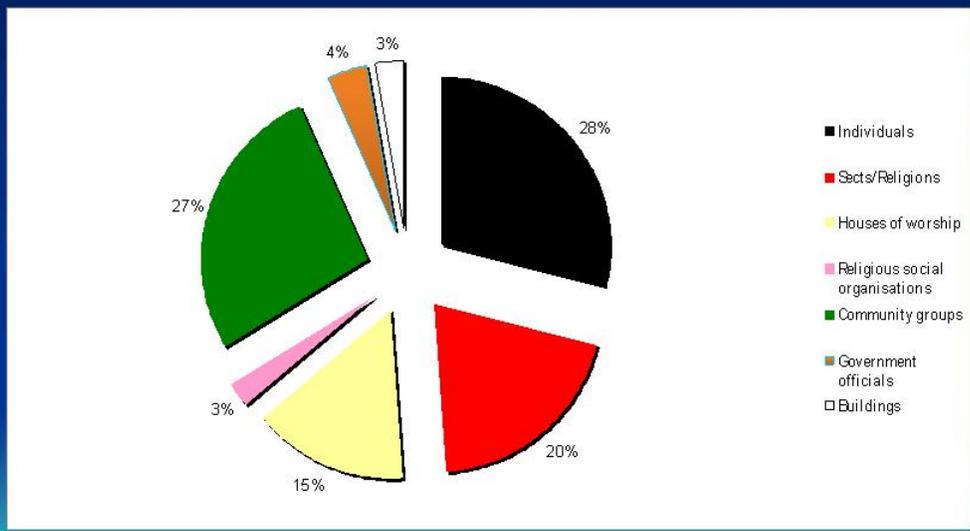


Total: 232 cases

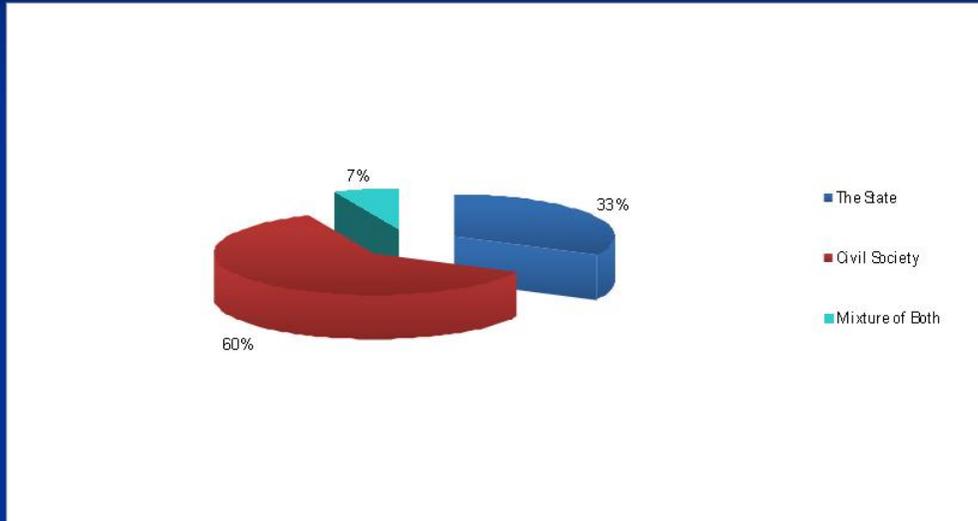
FORMS OF RELIGIOUS FREEDOM VIOLATIONS IN 2008



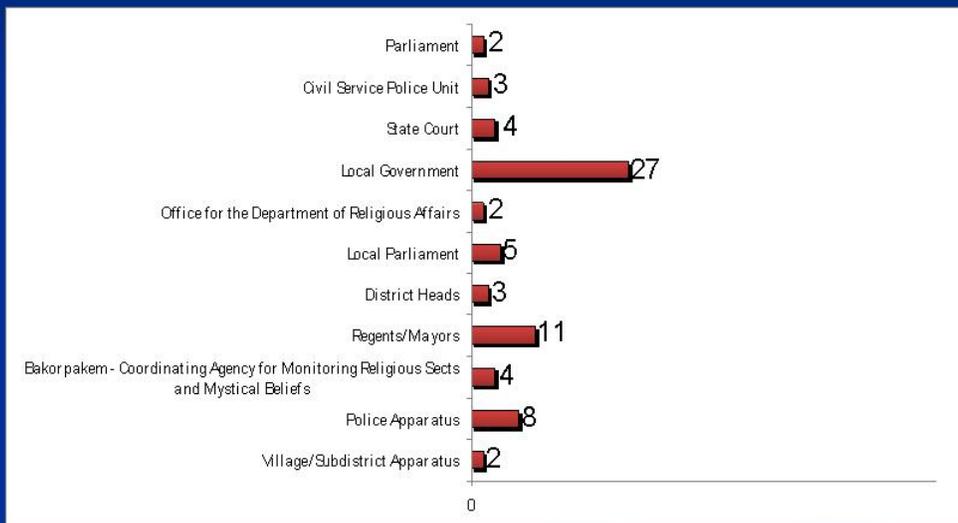
VICTIMS OF VIOLATIONS OF RELIGIOUS FREEDOM IN 2008



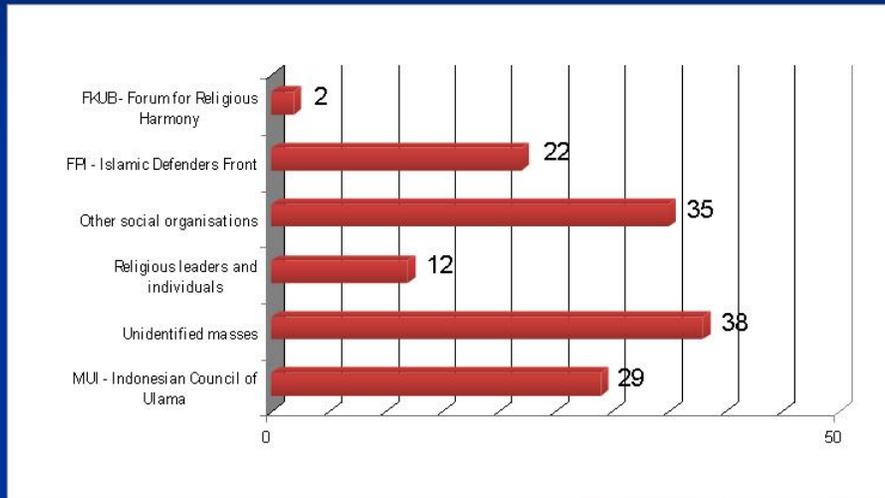
PERPETRATORS OF VIOLATIONS OF RELIGIOUS FREEDOM IN 2008



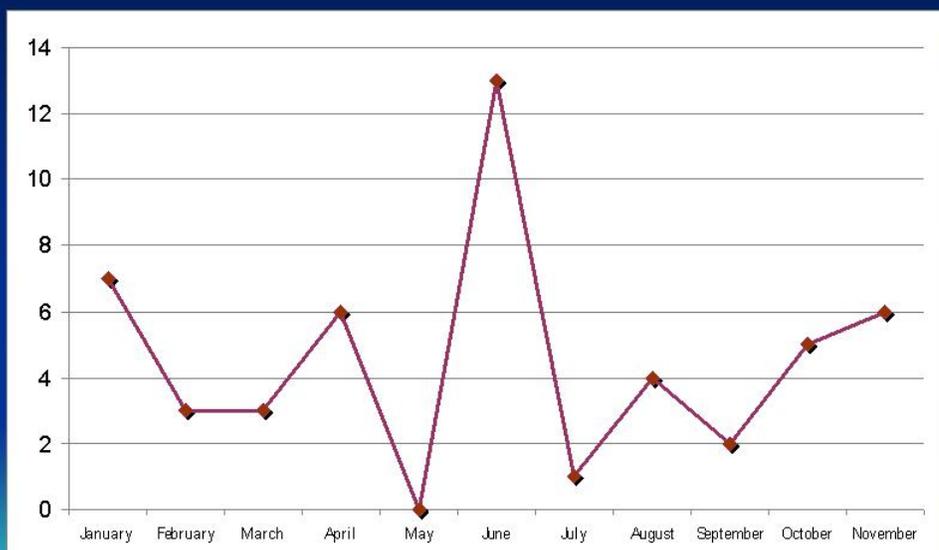
STATE ACTORS



CIVIL SOCIETY ACTORS



CASES OF DEVIANCE AGAINST GROUPS/INDIVIDUALS PER MONTH



RELIGIOUSLY BASED VIOLENCE PER MONTH

