

The Problem of Religious Tolerance in Indonesia from the Perspective of Human Rights Based on Law Number 39 of 1999

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Keywords:

house of worship permits,
religious tolerance, human rights,
Law No. 39/1999, freedom of
religion

Abstract

Indonesia, as a nation with high religious diversity, faces persistent challenges in guaranteeing freedom of religion, particularly regarding permits for constructing houses of worship. Although Article 22 of Law No. 39 of 1999 on Human Rights explicitly protects this fundamental right, the Joint Regulation of Two Ministers No. 9 and 8 of 2006 which requires user lists, community support, and recommendations from the Religious Harmony Forum (FKUB) has frequently become an instrument of bureaucratic discrimination against minority religious groups. Monitoring data from SETARA Institute and the National Commission on Human Rights record hundreds of cases of worship disruption, church sealing, and rejection of building permits between 2007 and 2023, indicating a persistent gap between constitutional norms and field practice. This study employed a normative juridical method with statute and literature approaches, analyzing legislation related to house of worship permits and their relation to human rights protection in Indonesia. The findings show that obstacles are not merely administrative but also stem from social resistance, narrow majority-minority interpretations, weak local policy implementation, and inconsistent law enforcement, which together constitute violations of the right to religious freedom, the right to security, and the right to protection from discrimination as guaranteed by Law No. 39/1999. Case patterns such as GKI Yasmin Bogor and various church disputes in Cilegon and Tanjung Balai Karimun reveal how community support requirements are often manipulated as a "veto tool." The study recommends reinterpreting or revising the Joint Ministerial Regulation, strengthening consistent human rights-based law enforcement, positioning FKUB as a neutral facilitator, and investing in tolerance education to bridge formal and substantive religious tolerance in Indonesia.

INTRODUCTION

Indonesia, as a country with high religious diversity, faces complex challenges in realizing freedom of religion and belief as part of human rights (Angelia & Lastanti, 2024; Askiah & Valdiansyah, 2025; Desai et al., 2025; Hutabarat, 2024; Lassoued et al., 2024; Marrung & Ferdiansah, 2025; Naibaho et al., 2024; Pangestu & Nawirah, 2025; Setijaningsih, 2026). The issue of permits for the establishment of houses of worship has become a crucial issue that reflects the problems of religious tolerance in Indonesia, especially in the perspective of the implementation of Law Number 39 of 1999 concerning Human Rights and the Joint

Decree (SKB) of 2 Ministers on the Establishment of Houses of Worship. This is stated in the basis of the Law as included in Law Number 39 of 1999 concerning Human Rights in Article 22 which expressly regulates freedom of religion and belief as fundamental rights that cannot be reduced under any circumstances. The article states: "(1) Everyone is free to embrace his own religion and worship according to his religion and belief; (2) The State guarantees the freedom of everyone to embrace their own religion and to worship according to their religion and beliefs."

This constitutional guarantee is strengthened by Article 28E paragraph (1) and Article 29 of the 1945 Constitution which states that "the state guarantees the freedom of each citizen to embrace his or her own religion and to worship according to his religion and belief". This provision is in line with Article 18 of the Universal Declaration of Human Rights (DUHAM) which regulates freedom of thought, belief, and religion, including the freedom to express one's religion through teaching, practice, worship, and obedience (Buonomo, 2023; Contreras & Saavedra, 2023; Ghanea & Wiener, 2023; Kaime & Chirwa, 2024; Lathifah et al., 2025; Mert, 2022). There are problems that hinder the process of the right to freedom of religion according to human rights in Indonesia and the regulation is the Joint Regulation of the Minister of Religion and the Minister of Home Affairs Number 9 and 8 of 2006 concerning Guidelines for the Implementation of Regional Heads' Duties in the Maintenance of Religious Harmony and the Establishment of Houses of Worship has become a source of controversy in the implementation of religious freedom in Indonesia (Dewi & Widiyarta, 2025; Hutagalung et al., 2026; Lessy et al., 2025; Nur, 2026; Rozikin et al., 2024; Sumbulah et al., 2022). The regulation that replaces Ministerial Decree No. 1/BER/mdn-mag/1969 stipulates requirements that are considered discriminatory, namely:

1. List of names and ID cards of at least 90 people of houses of worship that are approved by local officials
2. At least 60 local community support approved by the village head/village head
3. Written recommendation from the Head of the Office of the Ministry of Religion of the district/city
4. Written recommendation from the district/city Religious Harmony Forum (FKUB)

Criticism of this regulation arises because it is considered to provide space for tension in majority-minority relations and facilitates discrimination against minority religious groups. In addition, there is data collected from 2007-2024 that reveals the violations that occurred. The Setara Institute has noted that throughout the period 2007-2018, there were 199 cases of worship disturbances among Christians. More comprehensive longitudinal data shows that in the 2007-2022 period there have been 573 disturbances to worship and places of worship, with details of 140 incidents of vandalism and 90 incidents of rejection of houses of worship. The year 2022 showed an escalation with 50 incidents of disruption of places of worship, where mosques experienced the most disruptions (15 incidents) which mostly affected Ahmadiyya houses of worship, followed by churches (13 incidents) and monasteries (4 incidents). Data for 2023 even shows a drastic increase with 329 acts of violation of freedom of religion/belief. Komnas HAM reported receiving 23 cases of houses of worship during 2017-2019, spread across East Nusa Tenggara, East Java, West Java, Southeast Maluku, and North Sulawesi, in the form of sealing houses of worship, IMB problems, to burning and attacking houses of worship.

METHOD

The research method applied in this paper uses a type of research, namely the normative juridical method in this study based on the need to analyze the laws and regulations related to the establishment of houses of worship, especially Joint Ministerial Regulations Number 9 and Number 8 of 2006, as well as their relation to the protection of human rights in Indonesia. Using this method, researchers will research library materials and refer to legal regulations set by the government. In this study, the approach used is the statute approach and the literature approach. This approach is carried out by analyzing and studying laws and regulations related to the legal issues being faced. Through this approach, the researcher will examine all laws and regulations related to the issue of permits for the establishment of houses of worship and their relation to human rights. Meanwhile, the secondary legal material is obtained from journals and surrounding news which are then associated with existing problems

RESULTS AND DISCUSSIONS

The problem of permits for the establishment of houses of worship in Indonesia shows that the main obstacles are not only administration, but also social resistance, narrow interpretations of the majority-minority, and weak policy implementation in the regions. SETARA Institute assesses that PBM 2006 is often used to restrict the construction of houses of worship for minority groups, while monitoring data shows that disturbances to places of worship are still repeated from year to year. From the perspective of Law No. 39 of 1999, the practice of refusing, sealing, destroying, or obstructing permits for houses of worship can be understood as a violation of the right to freedom of religion, the right to a sense of security, the right to protection without discrimination, and the state's obligation to protect and uphold human rights. Article 22 affirms that everyone is free to embrace religion and worship according to his religion, Article 4 places the right to religion as an inalienable right, and Articles 71-72 require the government to be actively responsible. Religious tolerance in Indonesia also still faces serious problems in the form of blasphemy, discrimination against minorities, and violence against places of worship. SETARA noted the disruption of places of worship and criminalization with blasphemy articles as the two dominant challenges in KBB, while Amnesty also reported an increase in permit denials, intimidation, and bans on worship in 2021-2022

Normatively, Law No. 39 of 1999 provides a strong basis that freedom of religion is not a state gift, but a natural right that must be respected. Article 3, Article 4, Article 22, Article 30, Article 69, and Article 71 affirm the principles of non-discrimination, freedom of religion, a sense of security, the obligation of mutual respect, and the responsibility of the state to carry out effective protection. But in practice, house of worship permits often turn into an arena of social domination. Common obstacles arise from difficult administrative requirements, politicized social recommendations, majority group pressure, and slow local government responses. VOA reported that FKUB is often a barrier to house of worship applications, and disruption of places of worship continues to occur from rejection to sealing. From a human rights perspective, this problem is not just a conflict between citizens, but a failure of the state to ensure equal access for all religious believers. When the state allows rejection or destruction to occur, the state risks violating a negative obligation not to discriminate and a positive

obligation to protect citizens from violence and intimidation. Article 73 of Law No. 39 of 1999 does allow the restriction of rights, but only by law and solely to guarantee the rights of others, morality, public order, and the interests of the nation; restrictions must not turn into structural discrimination.

Key findings: Tensions of norms and practices

Formally, the right to freedom of religion and worship is guaranteed by the 1945 Constitution and Law No. 39/1999 so that the state is obliged to protect the establishment and maintenance of places of worship as part of human rights; However, implementation at the local level shows inconsistencies between national norms and administrative practices that pose barriers for religious minority groups. Decree 2 of the Ministers (Guidelines for the Implementation of Regional Heads' Duties in the Establishment of Houses of Worship, PBM/Menag-Mendagri 2006) requires the approval/support of the local community and recommendations of the FKUB/Ministry of Religion intended to prevent conflicts; however, monitoring data and empirical cases show that this SKB is often used as a bureaucratic instrument that allows discrimination and delays in licensing so as to violate the right to freedom of worship.

Empirical Cases and Rejection Patterns

Repeated cases (e.g. cases at GKI Yasmin Bogor, various rejections in Cilegon, disruptions to church renovations in Tanjung Balai Karimun, and dozens of rejection cases during 2021–2022 monitored by human rights institutions) reflect a pattern: (a) the use of pressure from local masses or mass organizations to force the cancellation of permits; (b) local interpretation of the SKB that highlights the requirements for citizen support so as to make the requirement a "tool" of rejection; (c) slow or inconsistent administrative/law enforcement actions by local officials. Case studies show that local governments often delay administrative decisions or implement discriminatory old local regulations so that even if applicants meet technical requirements, permits are delayed or blocked due to local political pressures.

Legal Analysis: Decree of 2 Ministers Against Human Rights Principles

In terms of hierarchy of norms, the Constitution and the Human Rights Law are above the SKB; any implementing regulation must be in line with the constitutional guarantee of freedom of religion and the state's obligation to protect human rights. The Decree of the 2 Ministers actually aims to regulate governance so as not to cause conflicts; however, formal requirements (e.g. evidence of local majority support, FKUB recommendations) if applied rigidly or distorted, actually constitute a substantive obstacle to the right to worship so that it is contrary to the spirit of Human Rights Law No. 39/1999. Therefore, the use of the SKB as a justification for refusal gives birth to a conflict of norms: administrative procedures are used as a basis for restricting fundamental rights that should be protected according to the Human Rights Law.

Sanctions and enforcement: the gap between criminal rules and practice

From a criminal and administrative point of view, actions that obstruct worship or force the cancellation of worship may be subject to sanctions under the Criminal Code and other

provisions (including articles prohibiting public disturbance and violence); Law No. 39/1999 also requires state protection of religious freedom. On the ground, there are failures of enforcement: the authorities are sometimes hesitant to take repressive action against perpetrators of intolerance because of local political considerations, fear of triggering riots, or because of a lack of administrative evidence and the result is impunity for perpetrators of intolerance and victimization for victims.

Social Implications: Formal Tolerance Versus Substantive

Tolerance in Indonesia often comes in two forms: formal tolerance (the existence of legal norms and declarations of harmony) and substantive tolerance (daily practices such as mutual cooperation, interfaith dialogue, joint celebrations). The case of the rejection of houses of worship shows that although a normative framework exists, substantive tolerance is fragile when it is preceded or shaken by local political interests or intolerant groups. Religious education, the role of moderate mass organizations (e.g. NU, MUI, Muhammadiyah), well-functioning FKUB, and firm regional leadership have been proven to increase substantive tolerance; On the contrary, the weak education of tolerance and the dominance of exclusionary narratives magnify conflicts.

Prevention of Intolerance: Recommendations for Human Rights Based Policies

Reform of implementing rules: The 2 Ministerial Decrees need to be revised or reinterpreted so that they do not become a tool of discrimination, for example affirming that the requirement of citizen support should not be a veto of constitutionally guaranteed rights and requiring clear time limits and evidentiary standards for recommendations of FKUB/related agencies. Strengthening human rights-based law enforcement: police, prosecutors' offices, and local governments must be given strict guidelines to crack down on those who obstruct worship; The application of criminal and administrative sanctions must be consistent to prevent impunity.

Strengthening the mediation mechanism and the neutral role of FKUB: FKUB must function as a facilitator rather than a discriminatory gatekeeper; Transparency and accountability standards need to be implemented so that recommendations are based on facts and human rights. Cultural and educational efforts: integration of tolerance education in schools, training for local officials, and interfaith dialogue programs at the community level to build substantive tolerance, supporting harmonization between legal norms and social practices.

Short-term and long-term implementation recommendations

In the short term, an interpretive national guideline must be issued by the Ministry of Law and Human Rights/Ministry of Religion/Director General of Human Rights that affirms the supremacy of the Human Rights Law over the SKB, accelerates the settlement of IMB applications for houses of worship with a strict deadline, and swift legal action against obstacles to worship. This can immediately reduce cases of discriminatory administrative delays. Long-term: technical revision of the Decree or replacing it with regulations that are in line with human rights. It must harmonize regional regulations, namely by establishing a national mediation center for conflicts in houses of worship; as well as a continuous tolerance education program involving religious leaders, youth, and local media.

Relation to Law No. 39/1999 and the Conception of Human Rights

Legal conclusion: The rejection of the establishment of houses of worship that occurred due to bureaucratic interpretation or mass pressure is contrary to the principle of the right to freedom of religion protected by Law No. 39/1999; The state has an obligation to ensure that these rights are not only stated on paper but also implemented factually. To uphold human rights in this context, a combination of legal instruments (criminal and administrative enforcement), reform of implementing rules, and proactive efforts to build social tolerance so that religious rights become a daily reality and not just a formal norm

Case Examples With News Quotes



(Illustration of News About Intolerance in Indonesia)

The issue of permits for the establishment of houses of worship in Indonesia is not just an administrative issue but a reflection of the tension between national human rights norms and local socio-political dynamics; Addressing these issues requires a reformulation of implementing policies (including SKB), consistent law enforcement, and long-term investment in education and interfaith dialogue to strengthen substantive tolerance in the wider community. If drawn to the framework of Law No. 39 of 1999, the core of the problem is the violation of the principle of equality before the law and protection without discrimination. Article 3 paragraphs (2)-(3) and Article 5 demand fair treatment for everyone, including vulnerable groups, while Article 6 requires the state to pay attention to and protect differences in customary law societies and vulnerable groups. In the case of houses of worship, discrimination usually appears in the form of non-neutral administrative requirements, mass pressure, or neglect of the authorities. When minorities are forced to postpone worship, find alternative locations, or wait without certainty, it touches on the right to personal liberty and religious freedom guaranteed by Article 22 and Article 30. Therefore, the problem of houses of worship is not only a conflict of licensing, but a problem of the fulfillment of human rights by the state. Another failure can be seen in the lack of recovery of victims. Articles 17 and 18 demand due process, while Articles 71-72 require effective implementation measures. This means that settlement through mediation alone is not enough if it is not followed by law enforcement, restoration of rights, and guarantees so that similar incidents do not recur. Another failure can be seen in the lack of recovery of victims. Articles 17 and 18 demand due process, while Articles 71-72 require effective implementation measures. This means that settlement through mediation alone is not enough if it is not followed by law enforcement, restoration of rights, and guarantees so that similar incidents do not recur in the future.

CONCLUSION

The conclusion is that the issue of permits for the establishment of houses of worship in Indonesia reflects the tension between constitutional norms on religious freedom and local administrative and political practices that limit these rights. The Decree of the Two Ministers (PBM Nos. 9 and 8 of 2006) which requires citizen support, FKUB recommendations, and minimum user evidence, although intended to prevent conflict, is often distorted as a tool of social veto so that it has the potential to violate Law No. 39/1999 on human rights. The gap in law enforcement leads to impunity for perpetrators of intolerance: local officials are often slow or hesitant to implement criminal/administrative sanctions even though the rules and the Criminal Code provide a punishment mechanism for those who obstruct worship. Formal tolerances (rules and declarations) have not automatically turned into substantive tolerances; education, firm local leadership, the role of moderate mass organizations, and a neutral FKUB have proven to be crucial to guarantee the right to real worship in the field.

There is a suggestion as an effort to strengthen policies and actions, namely Revision or Revocation of the Decree of the Two Ministers: The central government needs to immediately substantively revise or revoke the 2006 PBM and replace it with implementing regulations that are clearly in line with the constitution and the Human Rights Law, which affirm that administrative requirements should not be a veto of the right to freedom of religion. The supremacy of human rights must be affirmed in the National Guidelines: The Ministry of Law and Human Rights, the Ministry of Religion, and the Ministry of Home Affairs must issue national interpretive guidelines that affirm the hierarchy of constitutional and human rights regulations above the Decree as well as technical guidelines regarding evidence and deadlines for handling applications for houses of worship. Standardize Licensing Procedures with Deadlines: Implement standardized national licensing procedures and time limits (e.g. 30–60 working days) for decisions, with an automatic approval mechanism in the absence of a decision, to reduce discriminatory administrative delays. As well as Strengthening Rights-Based Law Enforcement: The police and prosecutor's offices must be given special guidelines to crack down on perpetrators of obstruction of worship; Cases of intolerance must be processed quickly so as not to foster impunity. Implement FKUB Reform: FKUB must function as an independent and accountable mediation body, with transparency standards, clear member criteria, and an appeal mechanism for recommendations that are considered discriminatory. Maintain the Mediation Mechanism and the National Resolution Center by establishing a national mediation unit or regional representative to handle disputes over the establishment of houses of worship so that the settlement does not depend entirely on local political dynamics and includes moderate religious leaders, the government, and human rights NGOs. Conduct Tolerance Education & Campaigns, namely by incorporating a tolerance education curriculum in schools, training for local officials, and interfaith dialogue programs that emphasize the values of Pancasila, Bhinneka Tunggal Ika, and human rights principles to foster long-term substantive tolerance. Implement Victim Protection & Monitoring by providing a quick reporting channel with a hotline or legal interference for groups that have been rejected by Komnas HAM, the Ombudsman, or independent agencies must monitor the implementation of licensing and issue periodic reports to ensure accountability. To harmonize implementing rules with the Human Rights Law and strengthen law enforcement will reduce discriminatory tools

used to deny houses of worship and strengthen the state's legitimacy in protecting religious rights. At the social level, the combination of regulatory reforms and educational/dialogue programs will strengthen the shift from formal tolerance to substantive tolerance that is resistant to local political pressure and intolerant mass organizations. This effort must involve the central government, local governments, law enforcement officials, religious leaders, moderate mass organizations, and civil society so that the freedom of religion guaranteed by Law No. 39/1999 is truly realized on the ground and cases such as GKI Yasmin or the rejection in Cilegon will not be repeated in the future.

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