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Behind the Bureaucratic Wall: The Paradox of House of Worship Regulations in Indonesia

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ABSTRACT

Establishing houses of worship in Indonesia continues to face various obstacles despite constitutional guarantees. Data indicates an increasing trend in religious freedom violations, with 389 cases (2020-2021), 329 cases (2023), and 23 cases (2024), where rejection of house of worship establishments remains the predominant case. This research aims to critically analyze the implementation of the Joint Ministerial Regulation of the Minister of Religious Affairs and Minister of Home Affairs Numbers 9 and 8 of 2006 (PBM), focusing on three aspects: the causal relationship between administrative requirements and obstacles in establishing houses of worship, the impact of Religious Harmony Forum (FKUB) composition on the fulfillment of religious freedom rights, and formulating recommendations for simplifying house of worship establishment requirements. The research employs a socio-legal approach using the parameters of the Center for Religious Freedom and the International Covenant on Civil and Political Rights. Data was collected through in-depth interviews, documentation studies, and source triangulation. The research findings identify three main issues: quantitative requirements becoming structural barriers for minority groups, FKUB's majority-based representation composition creating bias in decision-making, and the decentralization of religious affairs leading to disparate treatment across regions. Policy reformulation is needed through simplifying administrative requirements, restructuring FKUB composition, and strengthening the central government's role in protecting religious freedom to realize the constitutional guarantee of religious freedom.

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1. INTRODUCTION

Indonesia is a country that guarantees the religious freedom of all its citizens, as stipulated in Article 29, paragraphs 1 and 2 of the 1945 Constitution. However, violations of religious freedom and belief continue to occur frequently and show an alarming upward trend. The Wahid Institute reported that throughout 2020-2021, there were 389 violations of religious freedom (Djafar, 2023). This figure was further corroborated by SETARA Institute's findings, which documented 217 incidents involving 329 violations in 2023 (Hasan, 2024). Recent records from Imparsial in 2024 indicate at least 23 incidents of religious freedom violations, with the most prominent cases involving the rejection of houses of worship construction and the prohibition of religious practices, both individually and collectively (Adiputra, 2024).

The Indonesia Institute noted a more specific phenomenon: a significant increase in disturbances against places of worship over the past six years. Throughout 2022 alone, 50 places of worship experienced disruptions, with detailed incidents affecting 21 churches (18 Protestant and 3 Catholic churches), 16 mosques, 6 Buddhist temples, 4 prayer rooms, 2 Hindu temples, and 1 indigenous worship site (Muchtar et al., 2024). This data indicates that disruptions to houses of Field investigations reveal the complexity of issues involving both administrative and socio-religious aspects. For instance, the construction of St. Joseph Church in Karimun Regency, Riau Islands, was halted due to Building Permit (IMB) issues that remain under litigation at the Tanjung Pinang State Administrative Court (Amnesty International, 2020). A similar problem has affected GBI Tlogosari since 1998, where construction was stopped by Semarang City's National and Political Unity Office and faced residents' opposition (Wijayanto, 2021). Similarly, the Imam Ahmad bin Hambal Mosque in Bogor has encountered licensing obstacles complicated by residents' sentiments regarding allegations of spreading particular teachings (Noorbani, 2023).

Previous studies by Arutiunian (2022), Babšek & Kovač (2023), Bhui (2016), Hekman et al. (2009), Kakemam et al. (2024), Macinati & Young (2024) and Rapp & Ackermann (2016) demonstrate that these issues become increasingly complex when administrative complications intersect with societal intolerance. In Rejoagung Village, Tulungagung, residents gradually withdrew their support for mosque construction because it was perceived to teach doctrines outside Ahlussunnah wal Jamaah (Aswaja) (Hasani et al., 2021). Consequently, the administrative requirement of obtaining support from at least 60 local residents could not be met. Some cases have even been explicitly formalized in local government policies, as evidenced in the Aceh Singkil Regent's Letter Number 450/468, Letter Number 450/Setda-Kesra/1266/2020 in Pekanbaru, and Tulungagung Regent's Order Number 300/624/209/2020.

The government has been identified as engaging in three problematic forms of action: active measures (by commission) involving unilateral cessation of house of worship construction, passive measures (by omission) involving prolonged administrative processes (Smith, 2008), and policy measures (by rule/judiciary) involving the issuance of cessation letters and establishment of complex requirements. These three forms of action culminate in human rights violations protected by the constitution (Sigit & Hasani, 2021).

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Unlike previous research that focused more on documenting cases of religious freedom violations in general, this article offers a critical analysis of the legal-formal aspects of the Joint Ministerial Regulation of the Minister of Religious Affairs and Minister of Home Affairs Numbers 8 and 9 of 2006, particularly Articles 14 and 17, using a socio-legal approach and international human rights standards. The novelty of this research lies in its empirical demonstration of how the administrative requirements in the 2006 Joint Ministerial Regulation have become legal instruments legitimizing intolerance practices, supported by comprehensive data from various monitoring institutions throughout 2020-2024. Furthermore, this research reveals how the membership composition of the Religious Harmony Forum (FKUB) based on majority representation has created structural barriers to fulfilling religious freedom rights for minority groups.

The significance of this research lies in the urgency to review the 2006 Joint Ministerial Regulation, which is inconsistent with the 1945 Constitution's mandate on guaranteeing religious freedom and belief. Religious freedom has instruments that are part of human rights fulfillment, referring to concepts in the Universal Declaration of Human Rights (UDHR) and several of its instruments ratified by Indonesia. Although the 1945 Constitution contained ideas of religious freedom before the UDHR was declared, contemporary understanding refers to international documents, especially after the second amendment to the 1945 Constitution in 2000.

This article aims to critically analyze the implementation of the 2006 Joint Ministerial Regulation, focusing on three main aspects: (1) examining the causal relationship between administrative requirements in the 2006 Joint Ministerial Regulation and obstacles to establishing houses of worship, (2) analyzing the role and impact of FKUB composition on fulfilling religious freedom rights, and (3) formulating recommendations for simplifying requirements for establishing houses of worship that better align with human rights principles and the constitution. As indicators in measuring religious freedom, this research uses standards applied by the Center for Religious Freedom (US Department of State, 2008) and parameters from the International Covenant on Civil and Political Rights ratified by Indonesia (United Nastion Human Rights, 1988).

This study becomes increasingly relevant considering that the right to worship and establish houses of worship is an integral part of religious freedom. This is recognized by various monitoring institutions such as the Wahid Institute (Djafar, 2023) and MMS (Moderate Muslim Society) (Husni, 2019) which include aspects of establishing houses of worship as indicators of religious freedom in their annual reports. Thus, this article not only contributes to academic debates about religious regulation but also provides an empirical basis for reformulating policies that better guarantee religious freedom in Indonesia.

2. METHODS

This research adopts a qualitative approach with a socio-legal (juridical-empirical) method, known as interdisciplinary studies of law (Sonata, 2015). This method was chosen as it enables researchers to analyze not only the normative aspects of

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regulations concerning houses of worship but also their implementation and social impact on society. Within the normative framework, the research employs variables and indicators applied by the Center for Religious Freedom (CRF) in Religious Freedom in The World (US Department of State, 2008). The CRF standards encompass three primary approaches to measuring religious and worship freedom: first, the presence or absence of government regulations restricting religious freedom; second, whether the government favors particular religions; and third, whether there are social dynamics or conventions that restrict religious freedom.

Data collection and analysis in this monitoring utilize parameters theoretically employed in human rights disciplines. The primary parameter used is the International Covenant on Civil and Political Rights, which has been ratified by the Indonesian government through Law No. 12/2005, including several UN Human Rights Committee General Comments related to freedom of religion or belief (United Nastion Human Rights, 1988). Additionally, the research references the Declaration on The Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, initiated through UN General Assembly resolution No. 36/55 on November 25, 1981, as well as thematic and annual reports submitted by the UN Special Rapporteur on Freedom of Religion or Belief (Bielefeldt & Wiener, 2021).

To ensure data validity, this research employs source triangulation techniques as explained by Lexi J. Moleong (2010). Source triangulation is conducted by comparing and cross-checking the reliability of information through different times and instruments. In practice, triangulation is performed by comparing data obtained from individual information sources and papers (in-depth interview results and documentation) or between papers. This category includes testing the degree of reliability through comparison and exploration of online sources, or between individual information sources.

The primary data collection technique employed is in-depth interviews, enabling researchers to obtain field data through direct dialogue with informants. Key informant selection was conducted using snowball sampling technique, where informants were chosen based on the purpose of the questions or information sought and informant availability in the field. Interviews were conducted with various parties involved in the dynamics of house of worship conflicts, including representatives from the Religious Harmony Forum (FKUB), religious leaders, relevant government officials, and communities directly affected by conflicts over the establishment of houses of worship.

In addition to interviews, this research also conducts documentary studies of various regulations, particularly Joint Ministerial Regulation No. 8 and 9 of 2006 (Hefner & Ali-Fauzi, 2014). Textual analysis is performed on the articles within these regulations to identify their meaning and implications for legal subjects, especially religious minority groups. Researchers also conduct case studies of several house of worship conflict incidents to understand how these regulations are implemented and impact the involved parties. The empirical data collected includes government responses and subject experiences regarding religious discrimination and intolerance occurring in the context of establishing houses of worship.

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The entire research process is designed to demonstrate the connection between law and the social context in which it exists, particularly in studying the Joint Ministerial Regulation. Using a socio-legal approach, this research examines not only the normative aspects of existing regulations but also considers the social, political, and cultural dynamics that influence the implementation of these regulations in the field. This enables researchers to comprehensively understand how regulations related to the establishment of houses of worship implicate religious life in Indonesia, particularly in the context of fulfilling religious freedom rights and beliefs for minority groups.

3. RESULTS AND DISCUSSION

The Emergence of Joint Ministerial Regulation No. 9 and 8 of 2006

The Joint Regulation of the Minister of Religious Affairs and Minister of Home Affairs No. 9 and 8 of 2006 was drafted by a formulation team consisting of leaders from religious councils (MUI, PGI, KWI, PHDI, and WALUBI). As a revision of the Joint Ministerial Decree of the Minister of Religious Affairs and Minister of Home Affairs No. 01 of 1969, the Joint Ministerial Regulation No. 9 and 8 of 2006 encompasses three crucial aspects of religious life: Guidelines for Regional Leaders or Deputy Regional Leaders in Maintaining Religious Harmony, Empowerment of Religious Harmony Forums, and Establishment of Houses of Worship (Farida, 2018).

During its formulation process, this policy generated controversy regarding issues of religious freedom, permits for establishing houses of worship, and limitations on their construction. The controversy surrounding this policy, which emerged from objections to the existence of a similar policy (Joint Ministerial Decree 01 of 1969), came from several religious councils that felt disadvantaged by the policy due to various issues that could arise in the field.

It is interesting to examine a policy formulation process involving policy actors from different religious groups, as several policies concerning the management of religious life or aimed at regulating diversity in Indonesia often generate pros and cons and controversy within society, particularly among religious groups in Indonesia.

As explained above, the genesis of Joint Ministerial Regulation No. 9 and 8 of 2006 originated from Joint Ministerial Decree No. 01 of 1969 regarding the implementation of government apparatus duties in ensuring order and smooth execution of religious development and worship by its adherents, signed on September 13, 1969, by K.H Moh Dahlan as Minister of Religious Affairs and Amir Mahmud as Minister of Home Affairs. This policy on religious life regulation became one of the legal foundations for inter-religious interaction from 1969 to 2006.

The 1969 Joint Ministerial Decree itself consisted of only 6 articles. Generally, these articles addressed guidelines for regional leaders regarding religious propagation and worship practices by adherents. One of the most fundamental articles concerning religious harmony in this regulation was formulated in Article 2, stating that: First, regional leaders guide and supervise the implementation of religious propagation and

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worship by its adherents to ensure that: a) it does not cause division among religious communities; b) it is not accompanied by intimidation, persuasion, coercion, or threats in any form, and does not violate law, security, and public order.

The emergence of Joint Ministerial Decree No. 01 of 1969 concerning the establishment of houses of worship was followed by Joint Ministerial Decree No. 01 of 1979 regarding procedures for religious propagation and foreign aid to religious institutions in Indonesia, as the government's response to issues of religious propagation, establishment of houses of worship, and foreign aid, which were considered potential sources of tension in inter-religious relations in Indonesia. These two conditions illustrated the situation at that time, where the establishment of houses of worship, religious propagation, and foreign aid to religious institutions in Indonesia often created disharmony among religious communities (Suntoro et al., 2020).

One supporting argument for this was the memorandum from PGI (then known as DGI - Indonesian Council of Churches), issued on September 13, 1969, which stated that Joint Ministerial Decree No. 01 of 1969 could potentially undermine the guarantee of freedom for each resident to practice their respective religions and to worship and develop their faiths. This was motivated by incidents of church burning and destruction carried out by certain individuals, including those that occurred in Makassar, South Sulawesi, in 1969. This was cited by DGI as opening the possibility for religious practitioners to lack guaranteed protection in worship.

The 1969 Joint Ministerial Decree did not specifically regulate the establishment of houses of worship. The regulation more generally governed religious development and propagation, which in principle was also related to the existence of houses of worship. Regarding the establishment of houses of worship, the 1969 Joint Ministerial Decree stated that such establishment must obtain permission from the local regional leader. The regional leader would issue permits if the applicant had obtained recommendations from the head of the religious affairs department representative, urban planning researcher, and there were no issues with local conditions and circumstances. Furthermore, the regulation stated that if necessary, the regional leader could seek opinions from religious organizations, religious scholars, or local clergy (Ali-Fauzi et al., 2011).

The subsequent article stated that if disputes arose, including disputes over the establishment of houses of worship, the authority for resolution lay with the regional leader. If unresolved and resulting in criminal acts, law enforcement would handle it according to applicable law. In practice, regional leaders would only issue permits after receiving recommendations from Laksusda (Special Regional Executive). Applications for house of worship permits were collected at Laksusda. This organization held monthly meetings to discuss permits for several houses of worship simultaneously. The approach generally emphasized social stability and security aspects. After the permit was issued, the governor, represented by the deputy governor for public welfare, would finalize the application for the house of worship in question.

Although on paper Laksusda was an extension of the Soeharto regime that could guarantee security, in reality, during the New Order period, many churches

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experienced vandalism. Meanwhile, during the transition period, perpetrators of destruction generally used the 1969 Joint Ministerial Decree as a basis for damaging and closing places of worship without permits, especially churches. On this basis, several community elements proposed the revocation of the 1969 Joint Ministerial Decree. According to them, the regulation disadvantaged minority groups. Instead of guaranteeing, this Joint Ministerial Decree restricted religious freedom guaranteed by the 1945 Constitution. This response was met by supporters of the 1969 Joint Ministerial Decree with proposals to elevate its status to law. In their view, the Joint Ministerial Decree could regulate inter-religious relations and prevent anarchic actions resulting from disputes over houses of worship. They believed that as long as houses of worship held permits, anarchic actions would not occur.

Another condition was as depicted in historical writings by many historians regarding inter-religious relations at that time, one of which was expressed by M.C. Ricklefs, which can be summarized into several important points as follows (Ricklefs, 2007):

1. There was a psychological condition among majority Islamic groups that after the fall of communism, they were not significantly involved by the New Order regime, which aligned with the military and even religious minorities.
2. There was an increase in the number of Christian adherents in several regions such as Central Java and Yogyakarta.
3. The increase in religious adherents was accompanied by an increase in the number of houses of worship facilities and foreign aid received by minority religions, along with the mixing of populations between religious adherents who were previously separated in their own enclaves.

Examining the above conditions, a fundamental assumption can be drawn that the conditions leading to the issuance of Joint Ministerial Decree number 01 of 1969 were due to tensions between majority and minority religious groups. The privileges obtained by minority groups caused jealousy from majority groups during these two periods. For example, in the case of rejection of the Grand Mosque construction in Manokwari, the Regent of Manokwari, Dominggus Mandacan, stated: "We must also listen to religious leaders here; the rejection comes from Christian Church leaders and denominations in Manokwari who wish to maintain and develop Manokwari as a historical city of Gospel entry and a City of Papuan Civilization."

A similar incident occurred in the case of rejection of the As Syuhada Mosque construction in Bitung City, North Sulawesi. From 2015 until now, voices of rejection continue to be heard, and intimidation and threats still occur. Besides administrative constraints, because the Bitung city FKUB did not issue construction recommendations citing unfulfilled requirements of 60 resident support signatures, although according to mosque management the signature requirements had been met, relevant parties seemed to delay permit issuance.

In many cases, this special requirement of 60 people has caused many conflicts between religious/belief groups applying for house of worship construction permits

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and surrounding communities who disagree with such construction, as happened in the As Syuhada Mosque case. Another cause is majority pressure. The As Syuhada mosque construction committee revealed: "Since the beginning when the mosque was to be built, it has continuously received terror, our mosque fence was stabbed with pig heads. Various mass organizations came in turns to intimidate; these actions continue to occur." As in this case, the Joint Ministerial Regulation at the implementation level has given rise to discriminatory legal politics against minority religious adherents in certain regions, as the procedures for obtaining permits to establish houses of worship always favor the interests of majority religious adherents in an area due to identical requirements between different religions.

In accordance with the provisions of the 2006 Joint Ministerial Regulation Articles 21 paragraphs (1), (2), and (3) and Article 22, if there are conflicts as mentioned in the establishment of houses of worship, five steps should be taken: (a) Encouraging relevant parties (Regional Government, FKUB, Ministry of Religious Affairs) to conduct deliberations for resolution; (b) encouraging parties proposing house of worship establishment to take socio-cultural approaches in accordance with local wisdom and local community support; (c) conducting coordination and field verification involving relevant parties (Ministry of Religious Affairs Office, Regional Government, FKUB and local community) regarding requirements for establishing houses of worship; (d) if points 1, 2 and 3 are fulfilled, encouraging the Head of Ministry of Religious Affairs Office and FKUB Chairman to issue written recommendations for the feasibility of establishing the house of worship; and (e) if all administrative procedures are fulfilled, encouraging Regional Government to issue building permits for houses of worship and ensuring that the construction can continue, despite pressure from any party. However, from example cases in Manokwari and Bitung, regional leaders appear to become the cause of conflicts over house of worship establishment, succumbing to majority pressure with resolution patterns that do not meet principles of justice.

Examining the genealogy of policy from the 1969 Joint Ministerial Decree to the 2006 Joint Ministerial Regulation, there appears to be a consistent pattern where legal instruments intended to regulate religious harmony instead become an arena of power contestation. As expressed by Hefner (2012), Wihantoro et al. (2015) and Wijaya & Ali (2021), the shift from a security approach in the New Order era to an administrative approach in the reform era has not changed the substance of the problem. Existing regulations continue to place religious freedom within the framework of supervision and restriction, rather than in the spirit of fulfilling citizens' constitutional rights.

This phenomenon reflects a more fundamental dilemma in managing religious diversity in Indonesia - how to balance between regulatory needs and freedom guarantees. Although Ardiansah (2018), Crouch (2010) and Intan (2022) argue that procedure formalization can prevent conflict, field experience shows that over-regulation in the form of rigid administrative requirements actually creates space for more systematic discriminatory practices. This is where the urgency lies in reformulating policies that not only change legal instruments but also shift the paradigm from control-based regulation to rights-based facilitation.

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Legal Analysis of Articles 14 and 17 of Joint Ministerial Regulation No. 9 and 8 of 2006: A Human Rights Approach

Religious freedom is a fundamental human right that must be protected and fulfilled by the state as an essential part of democracy. This protection should be provided not only in the form of basic norms but also in practice to guarantee citizens' religious freedom (Jera, 2015; Manrique, 2025). Non-discriminatory regulations regarding permits for places of worship are needed, considering the use of proportional justice concepts where those who inherently need more receive a larger portion. Proportional justice represents an effort to achieve egalitarian justice, which is essentially impossible to apply to the fulfillment of religious freedom in Indonesia, given the complexity of dynamics and problems possessed by each different religion.

In formulating the articles of Joint Ministerial Regulation No. 9 and 8 of 2006, there appears to be heavy influence from certain group interests. Among the articles in the Joint Ministerial Regulation, several crucial articles have become points of debate. First, Article 14 regulates the establishment of houses of worship, requiring a list of names and identity cards of 90 users validated by local officials according to territorial boundaries, along with support from 60 people validated by the village head. Second, Article 17 allows the government to relocate a religious facility for urban planning reasons. This policy received strong protests from PGI, KWI, and Walubi, as well as several parliament members who viewed this policy as potentially causing segregation within society.

All state actions in the form of presentation were based solely on mass pressure and reasons of public unrest regarding established houses of worship, with sealing still being carried out as experienced by numerous houses of worship. In such context, it appears clearly that state institutions acted not based on applicable law but on mass pressure. This situation mirrors the series of events in 2007 where the state submitted to mob justice. Meanwhile, actions taken by certain masses or mass organizations were based on arguments grounded in ideological expressions about the importance of Amar Ma'ruf Nahi Mungkar, manifesting in excessive and unnecessary protection of Muslims (Hasani et al., 2021).

Violations in various forms of actions over 7 months affecting Christian congregations represent clear violations of human rights and citizens' constitutional rights. Worship and practicing religion are rights guaranteed by RI Law No. 12/2005 concerning the ratification of the Covenant on Civil and Political Rights. Similarly, the 1945 Constitution of the Republic of Indonesia guarantees these rights.

Article 18 of the Covenant on Civil and Political Rights states in paragraph 1: "Everyone has the right to freedom of thought, belief, and religion. This right includes freedom to adopt a religion or belief of one's choice, and freedom, either individually or in community with others and in public or private, to manifest one's religion or belief in worship, observance, practice, and teaching."

While Article 28 E of the 1945 Constitution of the Republic of Indonesia states:

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1. Every person is free to embrace religion and worship according to their religion, choose education and teaching, choose employment, choose citizenship, choose residence in the territory of the state and leave it, and has the right to return.
2. Every person has the right to freedom of belief, to express thoughts and attitudes, in accordance with their conscience.

The establishment of houses of worship in human rights discipline falls under the forum externum cluster of rights, which can be limited. However, such limitations must still be implemented according to established restriction standards. Beyond the matter of restrictions, establishing houses of worship is not merely about building permits but about people's right to worship. How can congregations worship if their house of worship cannot be established, and what if its existence is continuously disturbed because it is considered disturbing to residents? The issue of the right to freely practice worship requires guarantees of freedom to establish places of worship. The interdependent nature in understanding Article 18 of the covenant and civil and political rights becomes absolutely necessary because it is impossible for someone to worship without a house of worship.

Regarding the establishment of houses of worship, in Indonesia's legal construction, it is regulated by the 2006 Joint Ministerial Regulation concerning guidelines for regional leaders/deputy regional leaders in maintaining religious harmony, empowering religious harmony forums, and establishing houses of worship. This legal product is considered by the government as a moderate approach to regulating the establishment of houses of worship. In the construction of human rights law and legislative science, the material content contained in this regulation excessively reduces the guarantees listed in the civil and political covenant and the constitution.

The Joint Ministerial Regulation with FKUB instruments in each regency/city and province has not become a solution for congregational needs to establish houses of worship but instead has become a constraint on the freedom to establish houses of worship itself. To fulfill the right to worship and establish houses of worship, communities are constrained by the mathematics of resident support, which in the Indonesian social context is very difficult to obtain. Not infrequently, even if the minimum requirements of 90 congregation members and 60 people around the place of worship establishment have been met, mass pressure obscures these administrative requirements. As a result, FKUB chooses to marginalize minority groups by participating in prohibiting the establishment of houses of worship.

Article 14 of the Joint Ministerial Regulation on establishing houses of worship states:

1. Houses of worship must meet administrative requirements and technical requirements for buildings.
2. In addition to meeting the requirements as referred to in paragraph 1, the establishment of houses of worship must meet special requirements including:

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a. List of names and ID cards of house of worship users of at least 90 people validated by local officials according to territorial boundaries as referred to in Article 13 paragraph (3);

b. Support from local community of at least 60 people validated by the village head;

c. Written recommendation from the head of the district/city religious affairs office; and

d. Written recommendation from the district/city FKUB.

3. In cases where requirements as referred to in paragraph two letter A are met while requirement B is not yet met, the regional government is obligated to facilitate the availability of locations for house of worship construction..

The regulation as quoted above is not only discriminatory but contradicts the guarantees of freedom in the constitution and the covenant on civil and political rights ratified by the Indonesian government. Even if using restrictions as stated in Article 28 J (2), the regulations in the Joint Ministerial Regulation still do not meet the standard restrictions common in human rights discipline.

The Joint Ministerial Regulation is also an instrument and way for the central government to delegate responsibility for fulfilling the right to freely worship and establish houses of worship to regional governments. Yet in the conception of regional economic politics, religious matters are not issues decentralized to regional governments. Although it can be understood that not all matters of establishing houses of worship can be handled by the central government, the continuous service negligence demonstrated by the central government in handling the persecution of religious freedom/belief in Indonesia clearly shows the central government has delegated responsibility to regional governments.

Simultaneously, the dynamics of regional autonomy politics show instructive performance for guaranteeing religious freedom/belief. It must be acknowledged that religious issues are one of the attractive political capitals for gaining public political support. Amid the poverty of regional elite political ideas and weak political accountability mechanisms, religious issues are quite cheap and festive to be used as political commodities. Although not the only influential factor in political processes, such as regional head elections, the religious factor becomes one of the public preferences in determining choices.

Meanwhile, at the national level, guaranteeing religious freedom/belief is not a main issue of public concern. Besides the central government delegating responsibility, the Indonesian Parliament has never shown its alignment with fulfilling guarantees of religious freedom/belief. Promises from Commissions III and VIII of the Indonesian Parliament to pay attention to mass persecution practices in the name of religion and morality have never been fulfilled.

Besides discriminatory legal construction factors and low attention from political elites, mass persecution practices over religious freedom/belief occur because:

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First, groups that have committed criminal acts have never been legally processed. This impunity for perpetrators of violence in the name of religion becomes a precedent for other groups in other places to do similar things; for them, what they do is not a violation of law. Here, the role of legal institutions is crucial in determining the prospects of similar persecution in the future. Without law enforcement, it is impossible for Puritan Islamic groups fond of committing violence in the name of religion and morality to stop their actions.

Second, violations of religious freedom/belief are very possible due to the meeting of interests of each party. Regional governments, as mentioned previously, use religious issues as political capital. Regional governments are also interested in public support for their leadership, so the majority argument becomes justification for regional governments to take violating actions, such as sealing churches. Meanwhile, pressure groups and persecution perpetrators have interests in continuously boosting their bargaining position before regional political elites and the public. The method of da'wah by enforcing Amar Ma'ruf Nahi Mungkar and protecting the ummah from the dangers of Christianization and liberalism is believed to be quite effective to remain considered as stakeholders in various public policies at the regional level. Economic interests for pressure groups become one of the benefits of such increased bargaining position.

Steps taken by regional political elites are wrapped in majority arguments and in the framework of maintaining stability and public order, while for pressure groups, all actions and interests are wrapped in the ideology of defending Islam.

Analysis of Articles 14 and 17 of the 2006 Joint Ministerial Regulation reveals a fundamental misalignment between the spirit of the constitution and regulatory implementation in the field. As expressed by Babie & Rochow (2012), Blank (2012), Finke & Goff (2023), Garba (2016), Jolicoeur & Memmer (2018), Kühle(2022) and Ridge (2020), there occurs what is called a "paradox of freedom regulation," where efforts to regulate religious freedom actually lead to excessive restrictions. This phenomenon is reinforced by findings from Fanany (2014) and Nordholt (2012) showing that decentralization of religious affairs has created policy fragmentation that opens opportunities for politicization of house of worship issues at the local level.

Based on my observation, this problem not only concerns legal-formal aspects but also reflects the state's failure to maintain its neutrality towards majority-minority dynamics. Although Bagir et al. (2020) and Marzuki (2023) argue that restrictions on rights in forum externum can be justified to maintain public order, field practices show that the 2006 Joint Ministerial Regulation actually legitimizes what I call "structured discrimination." This is evident from how administrative requirements that should be procedural in nature, in their implementation become discriminatory restriction instruments, especially for minority groups. Policy reformulation is needed that not only formally guarantees religious freedom but also ensures effective protection of every citizen's constitutional rights.

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The Joint Ministerial Regulation's Mandate: FKUB and the Maintenance of Religious Harmony

The institutions involved in handling conflicts over the establishment of houses of worship consist of regional governments, the Religious Harmony Forum (hereinafter referred to as FKUB), and local district courts, as regulated in Article 21, which stipulates that initial handling of conflicts regarding houses of worship establishment should be conducted through deliberation. In the context of empowering religious communities, the 2006 Joint Ministerial Regulation mandates regional governments to facilitate the formation of a forum for religious communities called FKUB. The government believes that FKUB can serve as an institution that plays a role in maintaining peace within society (Asnawati, 2012). FKUB's role in issuing recommendations related to the licensing process for establishing houses of worship is crucial, as regional governments will not issue permits without a written recommendation letter from FKUB (Mubarok, 2014). FKUB serves as a consultative partner to the government in providing recommendations as a basis for decision-making related to religious harmony conditions in a region.

The purpose of establishing FKUB is to serve as an external forum for inter-religious harmony (Article 8 paragraph 1). The formation of FKUB and its role creates dilemmas in its implementation. FKUB is formed based on proposals from Religious Councils and/or local communities (Article 8 paragraph 2). However, FKUB serves as a consultative partner to Regional Governments (Article 8 paragraph 4), providing policy recommendations to Governors (Article 9 paragraph 1 letter c), and providing policy recommendations to Regents/Mayors (Article 9 paragraph 2 letter c). Looking at this construction, it makes FKUB a replacement for the position of Regional MUI, while the Religious Council replaces the Central MUI. Clearly, the existence of MUI at both central and regional levels will be replaced by the presence of Religious Councils and FKUB. FKUB, which is located in Provinces and Regencies/Cities (Article 9 paragraphs 1 and 2), clearly negates the existence of Provincial and Regency/City MUI. Moreover, its role and function are recognized as a consultative institution with Governors and Regents/Mayors. From a positivistic perspective, this institution has legal standing. On the other hand, FKUB is independent from Religious Councils, although its establishment is based on Religious Council proposals (Miharja & Mulyana, 2019).

The composition of FKUB membership as regulated in Article 10 paragraph (3) of the Joint Ministerial Regulation states that membership is determined based on the number of local religious adherents with minimum representation of one person from each religion existing in the province and regency/city. This FKUB representation composition uses a majority religious community representation system, allowing the majority religious community to have greater representation in FKUB, thus not creating proportional justice for minority religious adherents in a region. This is because there is potential for erosion of rights to establish houses of worship for religious minorities through formal and material requirements in licensing. The composition of FKUB management using a representative system dominated by one religion can influence how the organization decides on issues.

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In the Joint Ministerial Regulation, FKUB's position is established as a forum expected to protect all religious communities in the region. This was emphasized by Minister of Religious Affairs Maftuh Basyuni, stating that FKUB empowerment as intended in this Joint Ministerial Regulation shows a spirit that maintaining religious harmony is not only done by the government but also requires involvement of religious communities in service, regulation, and community empowerment. Thus, this forum is intended to ensure proper community empowerment.

FKUB in the Joint Ministerial Regulation is intended as a forum at the local regency/city and provincial levels, aiming to gather religious leaders both leading and not leading religious organizations who serve as community role models. With FKUB, religious and community leaders are expected to directly analyze issues concerning religious harmony in their respective regions, recognize local problem symptoms, and set aside analysis patterns that uniformly standardize religious harmony issues nationally. Each region has specific problems regarding its locality, both in terms of unifying potential and conflict potential.

Attitudes toward FKUB can be categorized into three types. First, accepting FKUB's presence because it is mandated by Indonesian legislation and brings positive impacts to religious community life. This acceptance is usually based on the absence of a forum specifically handling inter-religious life. Second, accepting FKUB's existence by merging or integrating similar forums with FKUB that were previously formed in an area. The technical merger can be done by dissolving the existing forum and making its board members FKUB members, or by maintaining the existence and duties of that forum while its members also become FKUB board members, as occurred in Papua Province. Third, rejecting FKUB's presence although unable to prevent or cancel FKUB's formation in the region. This rejection is based on the existing formation of a forum accommodating all religious community elements that has existed in maintaining religious life in that region. Additionally, there are concerns about government intervention because FKUB is facilitated by the government. This impacts FKUB's performance, which becomes less optimal due to hampered communication and inharmonious relationships (Firdaus, 2014).

FKUB's representation composition uses a majority religious community representation system in a region, allowing the majority religious community to have greater representation in FKUB, thus not creating proportional justice for minority religious adherents in a region. This is because there is potential for erosion of rights to establish houses of worship for religious minorities through formal and material requirements in licensing.

FKUB's role is crucial in resolving inter-religious conflicts, but in implementation, proportional justice has not been achieved. This is because the proportion of FKUB member representation comes from local majority religions; therefore, openness and tolerance toward religious communities are needed to practice the nation's noble values again. Dispute resolution regarding the establishment of houses of worship subsequently falls under regional head authority, and if regional governments do not perform their duties, disputing parties can pursue legal channels through local courts.

Evaluating FKUB's implementation as a religious conflict mediation institution shows a gap between idealism and reality in the field. According to Humaizi et al.

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(2024), Li-Ann (2019) and Neo (2019), FKUB's institutional structure designed with a numerical representation approach actually creates what they call "majoritarian democracy" in religious governance. This finding is reinforced by Hati et al. (2023), Humaizi et al. (2024), Nurdin et al. (2021) and Rokhmad (2016) who identify that decision-making patterns in FKUB tend to follow quantity logic rather than quality deliberation, thus often ignoring substantive considerations regarding minority rights.

Based on my observation, the FKUB issue is not merely about membership composition but more fundamentally about the paradigm underlying its formation. Although Nurdin et al. (2021) and Rokhmad (2016) argue that FKUB can become a bridge for inter-religious dialogue, I see that the concept of "harmony" it promotes actually reflects a reductive security approach to the complexity of inter-religious relationships. FKUB transformation is needed from merely a licensing institution to a facilitation forum that truly accommodates diversity and ensures the fulfillment of constitutional rights for every religious group, regardless of their majority or minority status in a region.

Recommendations for Simplifying House of Worship Establishment Requirements: Human Rights and Constitutional Perspectives

Based on the analysis of the 2006 Joint Ministerial Regulation implementation and various emerging issues, there are several recommendations for simplifying house of worship establishment requirements that need to be considered to ensure the fulfillment of religious freedom rights in accordance with human rights principles and the constitution.

First, reformulation of quantitative requirements in Article 14 of the 2006 Joint Ministerial Regulation. The provision regarding the minimum requirement of 90 users and 60 community supporters needs to be reviewed as it has proven to be a legal instrument that perpetuates discrimination. Instead, a proportional system based on demographics can be implemented by considering: (1) the ratio of religious adherents in the region, (2) geographic distribution of religious followers, and (3) religious community growth projections. This system is more equitable as it accommodates different demographic realities in each region.

Second, restructuring of FKUB composition to ensure more equitable representation. Although Article 10 paragraph (3) of the Joint Ministerial Regulation establishes minimum representation of one person from each religion, in practice, majority group domination often hinders decision-making objectivity. Recommendations for this aspect include: (1) implementing a minimum 30% quota system for minority groups in FKUB management, (2) establishing an independent ethics council to oversee FKUB performance, and (3) mandatory public consultation in every strategic decision-making process.

Third, strengthening checks and balances mechanisms in the licensing process. Regional government domination in permit issuance is often influenced by local political pressure and majority sentiment. To address this, the following are needed: (1) establishment of an independent verification team involving legal experts, human

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rights activists, and academics, (2) standardization of transparent permit application and evaluation procedures, and (3) setting maximum time limits for permit processing to avoid prolonged administrative processes.

Fourth, simplification of administrative procedures with a human rights-based approach. Referring to the Center for Religious Freedom standards and the International Covenant on Civil and Political Rights, licensing procedures should focus on: (1) safety aspects and building technical standards, (2) spatial planning compliance, and (3) environmental impact. Requirements that are discriminatory or potentially trigger horizontal conflicts must be eliminated.

Fifth, strengthening the central government's role in protecting religious freedom. Decentralization of religious affairs through the 2006 Joint Ministerial Regulation has proven to create disparate treatment between regions. Recommendations for this aspect include: (1) establishing a special unit in the Ministry of Religious Affairs handling house of worship disputes, (2) national standardization for house of worship establishment binding all regions, and (3) central intervention mechanisms when regional governments fail to protect their citizens' worship rights.

Sixth, establishing effective dispute resolution mechanisms. Currently, conflicts over house of worship establishment often drag on without satisfactory solutions. The following are needed: (1) establishment of special mediation desks involving interfaith leaders, (2) setting dispute resolution procedures with clear time limits, and (3) transparent and accountable appeal mechanisms.

Seventh, strengthening legal sanctions for religious freedom violations. Impunity for perpetrators of violence and intimidation in house of worship establishment cases must be ended through: (1) affirmation of status quo for existing houses of worship, (2) administrative sanctions for officials who commit negligence, and (3) firm action against groups illegally obstructing house of worship establishment.

The above recommendations need to be implemented comprehensively and systematically while considering local contexts and socio-political dynamics in each region. The central government needs to take the initiative to revise the 2006 Joint Ministerial Regulation by involving all stakeholders, including minority groups that have been marginalized in the policy-making process.

Implementation of these recommendations must be guided by regular monitoring and evaluation to ensure their effectiveness in guaranteeing religious freedom. Involvement of civil society, academics, and international human rights institutions will strengthen the accountability and credibility of the regulatory reform process for house of worship establishment in Indonesia.

4. CONCLUSION

Based on the analysis of the implementation of Joint Ministerial Regulation No. 8 and 9 of 2006, this research finds a strong causal relationship between administrative requirements and obstacles in house of worship establishment. Quantitative requirements of 90 users and 60 community supporters have become legal instruments perpetuating discrimination, especially for minority groups. This is exacerbated by field practices where these requirements are often manipulated

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through support withdrawal or rejection based on religious sentiment, as occurred in the As Syuhada Mosque case in Bitung and similar cases in other regions.

Regarding FKUB's role and composition impact, the research reveals that the majority-based representation system has created structural inequality in decision-making processes. Although FKUB is formally intended as a forum for harmony, in practice this institution often becomes an instrument for imposing majority will. Unbalanced membership composition, coupled with dependence on local politics, causes FKUB to fail in performing its function as a neutral mediator in house of worship establishment conflicts.

Based on these findings, this research recommends a comprehensive reformulation of house of worship establishment requirements more aligned with human rights principles and the constitution. These recommendations include: implementing a demographically-based proportional system in quantitative requirements, restructuring FKUB with a minimum 30% quota for minorities, strengthening checks and balances mechanisms through independent verification teams, and national standardization of licensing procedures. Implementation of these recommendations needs to be guided by regular monitoring and active civil society involvement to ensure achievement of justice and equality in fulfilling religious freedom rights in Indonesia.

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