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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report highlights the obstacles and dangers that religious minorities face in Indonesia due to both governmental restrictions and interreligious tensions. It also outlines the ways in which freedom of religion or belief and freedom of expression are restricted and what the government is required to do to provide relief for those affected.

(a) Freedom of Religion or Belief

Background

3. Indonesia is the world's most populous Muslim majority country in the world.
4. Article 28E of the 1945 Constitution of the Republic of Indonesia guarantees freedom of religion or belief, including the freedom to choose, practice and express their faith. It also guarantees freedom of association, assembly and expression, among others.¹ Article 29 further guarantees freedom of worship to all according to their own religion or belief.²
5. However, the free and full exercise of freedom of religion or belief in the country is undermined both in law and practice, including as a result of legal restrictions on the listing of religious affiliation on identity documents and on the registration of houses of worship and the criminalization of blasphemy, as well as of pervasive extremist violence targeting religious minorities in the country.
6. Largely due to growing reports of extremist violence directed against Christian minority communities, Indonesia is ranked number 28 on the 2022 Open Doors World Watch List of top 50 countries where Christians are at greatest risk of persecution, a dramatic increase from 47th in 2021.³

Religious Affiliation on Identity Cards

7. Indonesia officially recognizes only six religions: Buddhism, Catholicism, Confucianism, Hinduism, Islam and Protestantism. Members of native or unrecognized faiths risk facing harassment or blasphemy charges for failing to provide accurate information in their identity cards as a result of this procedural limitation.
8. In a positive development, in November 2017 the Indonesian Constitutional Court ruled as unconstitutional the longstanding discriminatory prohibition on adherents of unrecognized faiths from listing their religion on official identity cards.⁴ In practice, however, only members of unrecognized faith groups who are registered with specific religious organizations have been permitted to finally mention their religious

¹ 1945 Constitution of the Republic of Indonesia, art. 28E.

² Id., art. 29.

³ Open Doors International 'Indonesia: Full Country Dossier' (December 2021) World Watch List 2022 <<https://odusa-media.com/2017/12/Full-Country-Dossier-Indonesia-2022.pdf>>, 5-6.

⁴ A. Harsono 'Indonesia Ruling Lifts Blasphemy Prosecution Threat to Religious Minorities' (7 November 2017) Human Rights Watch <<https://www.hrw.org/news/2017/11/07/indonesia-ruling-lifts-blasphemy-prosecution-threat-religious-minorities>>.

affiliation to their identity cards.⁵

Religious Registration Requirements

9. Under the 2006 Joint Ministerial Decree on Houses of Worship, which sets the standards for the licensing and registration of houses of worship, newly constructed or renovated houses of worship are required to obtain a permit by providing: a list of names and ID cards of at least 90 people who will use the house of worship with the approval of the village head; a support letter from at least 60 people living in the area, also with the endorsement of the village head; a written recommendation from the local branch of the Religious Affairs Ministry; and a written recommendation from the local branch of the Interfaith Communication Forum (FKUB).⁶
10. The need for a recommendation from the FKUB is the primary reason why many houses of worship have failed to receive permits under the regulation and have subsequently been forced to close. As per the regulation, the affiliated composition of each branch of the FKUB should be “proportionate” to the percentage of religious adherents in the area. As a result, leaders of majority religious communities in each region possess decision-making power over the establishment of minority places of worship. Consequently, members of minority faith groups in Indonesia are often unable to receive approvals to establish or renovate their houses of worship. Indonesian President Widodo pledged to repeal the regulation when he ran for office in 2014 but has failed to do so.⁷
11. In addition to the overly burdensome and arbitrary barriers to registration, there are also concerns of bias in the implementation of the abovementioned regulation. Despite cases of closures of houses of worship that are unable to procure the proper permit, it is alleged that local governments continue to allow mosques to be built and renovated without having to adhere to the onerous requirements under the regulation and receiving favorable treatment from the local boards.⁸
12. In March 2020, 15 Indonesian citizens filed a lawsuit with the Supreme Court due to the closing of thousands of places of worship, primarily those belonging to religious minority communities, including Christian churches and Ahmadi and Shia mosques.⁹

Extremist Violence against Christians

13. In November 2020, the East Indonesian Mujahideen (MIT) attacked the Protestant Church of Salvation in Sulawesi, one of Indonesia’s largest islands. The church building and several homes were destroyed, and the attack resulted in the death of four church members, including at least one beheading. The MIT is one of several terrorist groups throughout Indonesia that have pledged allegiance to the self-proclaimed Islamic State (IS). Authorities from the Indonesian military and local

⁵ A. Dipa ‘Keep the faith: Bandung issues first ID cards with native religion column’ (22 February 2019) The Jakarta Post <<https://www.thejakartapost.com/news/2019/02/21/keep-the-faith-bandung-issues-first-id-cards-with-native-religion-column.html>>.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ A. Harsono “Religious harmony’ regulation brings anything but’ (11 April 2020) The Jakarta Post <<https://www.thejakartapost.com/academia/2020/04/11/religious-harmony-regulation-brings-anything-but.html>>.

police forces have worked in conjunction to capture the attackers.¹⁰ In May 2021, four Christian farmers were also found killed in an attack attributed to MIT militants.¹¹

14. In March 2021, the terrorist group Jemaah Anshorut Daulah, which also pledged allegiance to the IS, carried out a suicide bombing attack during a Palm Sunday service on the island of Sulawesi. The attack severely wounded over 20 people, including four security guards and several parishioners.¹²
15. This assault was perpetrated by the same terrorist cell that was responsible for a series of church bombings in the city of Surabaya in May 2018, which resulted in 28 deaths and injured 57. At the time, President Joko Widodo described the bombings as “cowardly actions” that were “very barbaric and beyond the limit of humanity.”¹³
16. The Indonesian government must take urgent action to ensure the safety of Christians and persons belonging to other religious minorities targeted by these militant groups, including through increased security as well as investments in strategies to address the root causes of radicalization and religious extremism. In particular, Indonesia should increase efforts to promote interfaith harmony through dialogue and education.

Freedom of Religion or Belief in International Law

17. The International Covenant on Civil and Political Rights (ICCPR), which Indonesia ratified in 2006, guarantees the right to freedom of thought, conscience, and religion for everyone. Article 18 of the ICCPR states, “No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice,” and that “freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.”¹⁴
18. Furthermore, Article 26 of the ICCPR imposes an obligation upon States to “prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination,” including on the basis of religion.¹⁵ Article 27 of the ICCPR further guarantees that “[i]n those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group... to profess and practise their

¹⁰ BBC ‘Indonesia attacks: Army hunts suspected militants over Christian murders’ (1 December 2020) <<https://www.bbc.com/news/world-asia-55140847>>.

¹¹ K. Aprilla ‘MIT Militant Suspects Kill 4 Farmers in Indonesia’s Sulawesi Region’ (11 May 2021) Benar News <<https://www.benarnews.org/english/news/indonesian/sulawesi-farmers-slain-05112021152548.html>>.

¹² Christianity Today ‘Terrorists Target Palm Sunday Church Service in Indonesia’ (28 March 2021) <<https://www.christianitytoday.com/news/2021/march/indonesia-makassar-church-attack-palm-sunday-suicide-bomber.html>>.

¹³ Christianity Today ‘Indonesian Churches Blasted by Family of Suicide Bombers’ (13 May 2018) <<https://www.christianitytoday.com/news/2018/may/indonesian-churches-family-suicide-bombers-terrorist-attack.html>>.

¹⁴ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 18.

¹⁵ Id., art. 26.

own religion.”¹⁶

19. The Human Rights Committee’s General Comment No. 22 on Article 18 notes that:

“The fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents of other religions or non-believers.”¹⁷

20. Failure to protect persons belonging to religious minorities from violence and social hostility effectively prevents Indonesia from fulfilling its international human rights obligations. Likewise, the disproportionate restrictions on minority communities resulting from religious registration regulations contribute to their vulnerability to discrimination.

21. The Indonesian government should therefore redouble its commitment to guarantee that freedom of religion or belief is enjoyed by everyone on an equal basis and without limitations.

(b) Freedom of Expression

Criminalisation of Blasphemy

22. Article 156a of the Indonesian Penal Code stipulates a maximum sentence of five years in prison for anyone who expresses feelings or commits an act “which principally have the character of being at enmity with, abusing or staining a religion, adhered to in Indonesia;” or “with the intention to prevent a person to adhere to any religion based on the belief of the almighty God.”¹⁸ Since 2004, more than 150 people have been convicted under these provisions, including notably the former Governor of Jakarta, a Christian, who was removed from office and sentenced to two years in prison in what was widely regarded as a political smear campaign.¹⁹ An independent report found that in the first five months of 2020, at least 38 blasphemy accusations had been reported to the police.²⁰

23. In 2018, Indonesia’s Constitutional Court dismissed a petition to repeal Article 156a. The legal challenge was brought by members of the Ahmadiyya religious community, a Muslim minority sect. Its members have frequently faced discrimination and been accused of blasphemy due to being perceived as “deviating

¹⁶ Id., art. 27.

¹⁷ UN Human Rights Committee ‘General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)’ (30 July 1993) CCPR/C/21/Rev.1/Add.4, 9.

¹⁸ Indonesian Penal Code, art. 156a.

<https://learningpartnership.org/sites/default/files/resources/pdfs/Indonesia-Penal-Code-1982-English.pdf>.

¹⁹ B. Adams ‘Two Preachers in Indonesia Charged with Blasphemy’ (9 September 2021) Human Rights Watch <<https://www.hrw.org/news/2021/09/09/two-preachers-indonesia-charged-blasphemy>>.

²⁰ B. Sutrisno ‘Indonesians remain sensitive to perceived blasphemy: YLBHI’ (10 June 2020) The Jakarta Post <<https://www.thejakartapost.com/news/2020/06/10/indonesians-remain-sensitive-to-perceived-blasphemy-ylbhi.html>>.

from the principal teachings of Islam”.²¹ The basis for the petition was that the law opens the door for discrimination and abuse of religious minorities. However, the Court held that such allegations of abuse are not linked to Article 156a but instead due to local regulations that do not speak to the constitutionality of the anti-blasphemy law.²²

24. Indonesia’s Religious Affairs Minister Yaqut Cholil Qoumas has recently called for “fair treatment in all cases” in the implementation of laws on blasphemy and “hate speech”. However, Christian groups have claimed that in practice, police and law enforcement disproportionately arrest and prosecute Christians on charges of blasphemy.²³
25. In August 2021, a Christian preacher named Muhammad Kace was arrested in his friend’s home on charge of blasphemy. His alleged crime was uploading videos on the internet and defaming the Prophet Muhammad by saying he was “surrounded by devils and liars.”²⁴
26. Also in August 2021, local police arrested Muhammad Yahya Waloni, a Muslim cleric, in his home. He was charged with insulting Christianity by claiming that the Bible was fake in one of his sermons.²⁵
27. These recent arrests follow the resumption in June 2021 of deliberations on a legislative parliamentary proposal to revise the Criminal Code, which would add new anti-blasphemy provisions criminalizing the following conducts: disturbing a religious ritual, making noise near a house of worship, insulting a cleric while leading a ritual, and defaming religious artifacts.²⁶ The ongoing deliberations have been met with protests.²⁷ As of March 2022, the bill has not been adopted.

Freedom of Expression in International Law

28. As noted above, Article 18 of the ICCPR guarantees the right to freedom of religion or belief, including the right to manifest one’s religion or belief on private as well as public settings. Inseparably linked to Article 18 is Article 19, which enshrines the right to freedom of opinion and expression.²⁸ The freedom to express one’s beliefs and opinions is fundamental to the operation and maintenance of an open and free society – even when what is expressed may be unpopular or offensive to some

²¹ M. Winowatan ‘Indonesia’s Blasphemy Law Survives Court Challenge’ (26 July 2018) Human Rights Watch <<https://www.hrw.org/news/2018/07/26/indonesias-blasphemy-law-survives-court-challenge>>.

²² Id.

²³ A. Kumar ‘Muslim cleric arrested on blasphemy charges for insulting Christianity, calling the Bible ‘fiction’ (30 August 2021) Christian Post <<https://www.christianpost.com/news/indonesia-muslim-cleric-arrested-for-insulting-christianity.html>>.

²⁴ K.R. Lestari ‘Indonesian cleric nabbed for insulting Christianity’ (27 August 2021) UCA News <<https://www.ucanews.com/news/indonesian-cleric-nabbed-for-insulting-christianity/93895#>>.

²⁵ A. Kumar ‘Muslim cleric arrested on blasphemy charges for insulting Christianity, calling the Bible ‘fiction’ (30 August 2021) Christian Post <<https://www.christianpost.com/news/indonesia-muslim-cleric-arrested-for-insulting-christianity.html>>.

²⁶ A. Harsono ‘Indonesia to Expand Abusive Blasphemy Law’ (31 October 2019) Human Rights Watch <<https://www.hrw.org/news/2019/10/31/indonesia-expand-abusive-blasphemy-law>>.

²⁷ Jakarta Post ‘Speak up now on Criminal Code’ (18 June 2021) <<https://www.thejakartapost.com/academia/2021/06/17/speak-up-now-on-criminal-code.html>>.

²⁸ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), arts. 18, 19.

people.

29. Criminalizing blasphemy does not constitute an acceptable derogation from the right to freedom of expression, as article 19(3) of the ICCPR only allows restrictions on expression where they are necessary “for the respect of the rights and reputations of others” or “for the protection of national security, public order or public health or morals.”²⁹ Restrictions must serve as a necessary protection of persons, not of religions as such.
30. Article 20(2) of the ICCPR calls on States to prohibit “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility, or violence.”³⁰ General Comment No. 34 of the Human Rights Committee makes it clear that restrictions on the right to freedom of expression “should not go beyond what is permitted in paragraph 3 [of Article 19] or required under article 20,” and that relevant laws “must provide sufficient guidance to those charged with their execution to enable them to ascertain what sorts of expression are properly restricted and what sorts are not.”³¹
31. The subjective language of the anti-blasphemy provision opens the door to arbitrary and unjustified application of the law, contributing to further discrimination against those belonging to religious and other minorities.
32. The current anti-blasphemy law in the Indonesian Penal Code has resulted in serious human rights violations over the many decades it has been in place and continues to undermine freedom of religion and expression today. Merely ensuring the equal application of the law does not address its inherent incompatibility with international obligations. Additionally, the proposed expansion of the law would likely result in increased abuse and continue to silence legitimate speech that does not involve actual incitement to violence or discrimination. Indonesia must ensure its laws do not exceed the narrow restrictions on freedom of expression permitted by international law.

(c) Recommendations

33. In light of the foregoing, ADF International suggests the following recommendations be made to Indonesia:
 - a. Ensure full respect for freedom of religion or belief and freedom of expression without discrimination of any kind, in accordance with international human rights law;
 - b. Fully implement the decision of the High Court to permit all persons to list their religious affiliation on identity documents, without discrimination;
 - c. Increase efforts to protect Christians and other religious minorities from all forms of violence and discrimination, including by non-state actors;
 - d. Amend regulations on the registration of places of worship to remove unnecessary barriers and ensure non-discrimination of religious minorities, in law and in practice;

²⁹ Id., art. 19.

³⁰ Id., art. 20.

³¹ UN Human Rights Committee, General Comment No. 34 (2011) CCPR/C/GC/34/Rev.1/Art. 19, 49.

- e. Repeal Article 165(a) of the Penal Code criminalising blasphemy;
- f. Promote interfaith dialogue and religious tolerance in order to counter social hostility against religious minorities and prevent radicalization.



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