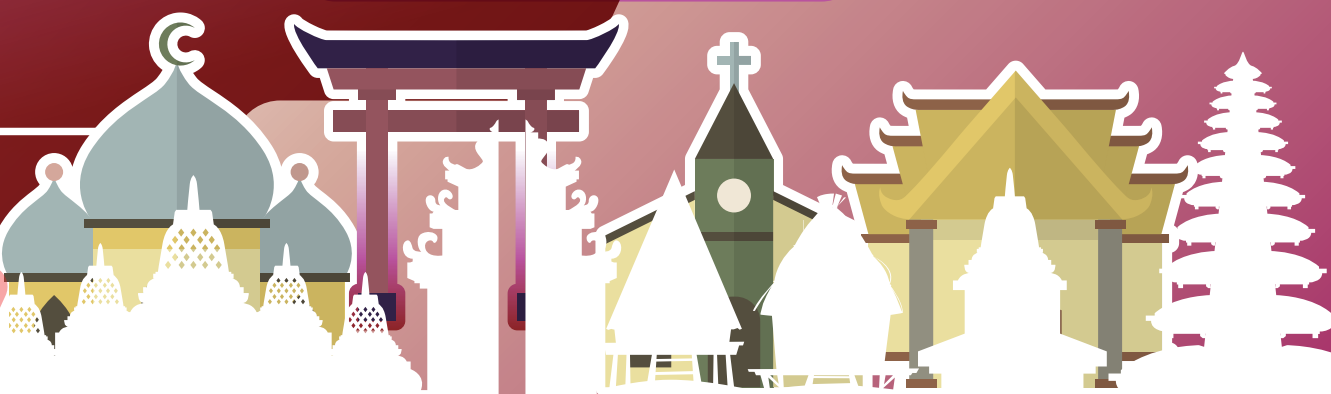


POLICY PAPER

Evaluation of the Requirements for the Establishment of Houses of Worship

**in the Joint Regulation of Minister of
Religious Affairs and Minister of Home Affairs
Number 9 and 8 of 2006**

**for the Right to Freedom of Religion
and Belief in Indonesia**



2024

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for the Right to Freedom of Religion
and Belief in Indonesia**

THE  **INDONESIAN INSTITUTE**
CENTER FOR PUBLIC POLICY RESEARCH

2024

The Indonesian Institute, Center for Public Policy Research (TII), was established on October 21, 2004 in Jakarta by a group of dynamic young activists and intellectuals. TII is an independent, non-partisan, and non-profit organization whose funding comes from grants, donations from foundations, companies, and other organizations. TII is engaged in public policy research that is committed to contribute to the public policy process and improve the quality of public policy in Indonesia.

Policy Paper: Evaluation of the Requirements for the Establishment of Houses of Worship in the Joint Regulation of Minister of Religious Affairs and Minister of Home Affairs Number 9 and 8 of 2006 for the Right to Freedom of Religion and Belief in Indonesia

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Table of Contents

Executive Summary	vii
Introduction	2
Research Questions	6
Research Methodology	6
1) Document Study	7
2) Semi-structured In-Depth Interview	7
3) Data Analysis	9
Literature Review	9
Right to Freedom of Religion and Belief	9
Policy Implementation Evaluation Theory	13
Theory of Legislation	14
Findings and Discussions	16
Implementation of the 2006 PBM Related to the Rules for the Establishment of Houses of Worship	20
Challenges and Obstacles in the Implementation of the 2006 PBM Regarding Regulations on the Establishment of Houses of Worship	31
Encouraging Amendment in Regulations for Establishing Houses of Worship	50
Recommendations	54
Bibliography	59
Books	59
Journals	60
Research Reports	61
Presentation	62
Websites	62
List of Interviews	63
Profile of The Indonesian Institute	65
The Research Team	66

List of Abbreviations

1945 Constitution	: The 1945 Constitution of the Republic of Indonesia
2006 PBM	: Joint Regulation of the Minister of Religious Affairs and the Minister of Home Affairs Number 8 and 9 of 2006 on Guidelines for the Implementation of the Duties of Regional Heads/Deputy Regional Heads in Maintaining Religious Harmony, Empowering the Forum for Religious and Establishing Houses of Worship.
1969 SKB	: Joint Decree of the Minister of Religion and the Minister of Home Affairs Number 01/BER/MDN-MAG/1969
2008 SKB	: Joint Decree of the Minister of Religious Affairs Number 3 of 2008, the Attorney General Number Kep-033/A/JA/6/2008, and the Minister of Home Affairs Number 199 of 2008 on Warnings and Orders to Adherents, Members, and/or Members of the Management of the Indonesian Ahmadiyah Congregation and Community
AKUR	: Karuhun Urang Tradition / Adat Karuhun Urang
Bakesbangpol	: National Unity and Politics Agency/Badan Kesatuan Bangsa dan Politik
BI	: Bank of Indonesia
BPK	: Supreme Audit Agency/Badan Pemeriksa Keuangan
BPS	: Central Bureau of Statistics/Badan Pusat Statistik
Building Law	: Law Number 28 of 2002 on Building
CRCS UGM	: Center for Religious and Cross-Cultural Studies, Universitas Gadjah Mada
CSO	: Civil Society Organizations
DPD	: House of Regional Representatives/Dewan Perwakilan Daerah
DPR	: House of Representatives/Dewan Perwakilan Rakyat
DPRA	: Aceh People's Representative Council /Dewan Perwakilan Rakyat Aceh
DPRD	: Regional People's Representative Council/Dewan Perwakilan Rakyat Daerah
FKUB	: Forum for Religious Harmony/Forum Kerukunan Umat Beragama
HAM	: Human Rights/ <i>Hak Asasi Manusia</i>
Human Rights Law	: Law Number 39 of 1999 on Human Rights
ICCPR	: International Covenant on Civil and Political Rights
ID	: Citizen Identification/ <i>Kartu Tanda Penduduk</i>
IMB	: Building Permit/ <i>Izin Mendirikan Bangunan</i>
JAI	: Jemaat Ahmadiyah Indonesia
Kanwil	: Regional Office /Kantor Wilayah
KBB	: Freedom of Religion/Belief/ <i>Kebebasan Beragama/Berkeyakinan</i>
KBR	: Radio News Office/Kantor Berita Radio
Kemenag	: Ministry of Religious Affairs of the Republic of Indonesia/Kementerian Agama Republik Indonesia
Kemendagri	: Ministry of Internal Affairs/Kementerian Dalam Negeri
Komnas HAM	: National Commission on Human Rights/Komisi Nasional Hak Asasi Manusia
KSP	: Presidential Staff Office/Kantor Staf Presiden
KY	: Jucidial Commission/Komisi Yudisial

LBH	: Legal Aid Institute/Lembaga Bantuan Hukum
Legislation Law	: Law Number 12 of 2011 concerning the Formation of Legislation as amended by Law Number 15 of 2019 and Law Number 13 of 2022
MA	: Supreme Court/Mahkamah Agung
MATAKIN	: High Council of the Indonesian Confucianism Religion/Majelis Tinggi Agama Khonghucu Indonesia
MK	: Constitutional Court/Mahkamah Konstitusi
MLKI	: Supreme Council for Belief in God Almighty Indonesia/Majelis Luhur Kepercayaan terhadap Tuhan Yang Maha Esa Indonesia
MPR	: People's Consultative Assembly/Majelis Permusyawaratan Rakyat
MPU	: Ulama Consultative Assembly/ Majelis Permusyawaratan Ulama
MUI	: The Indonesian Ulema Council/Majelis Ulama Indonesia
NGO	: Non-Governmental Organization
PBG	: Building Approval/ <i>Persetujuan Bangunan Gedung</i>
PBM	: Joint Ministerial Regulation/ <i>Peraturan Bersama Menteri</i>
Perda	: Regional Regulation/ <i>Peraturan Daerah</i>
PGI	: Communion of Churches in Indonesia/Persekutuan Gereja-Gereja di Indonesia
PKUB	: Religious Harmony Center/Pusat Kerukunan Umat Beragama
Police Law	: Law Number 2 of 2002 concerning the Indonesian National Police and its amendments
<i>Pungli</i>	: Illegal Levies/ <i>Pungutan Liar</i>
PUSAD Paramadina	: Center for the Study of Religion and Democracy, Paramadina University
Regional Government Law	: Law Number 32 of 2004 on Regional Government as amended in Law Number 23 of 2014
RPJMD	: Regional Medium Term Development Plan/Rencana Pembangunan Jangka Menengah Daerah
RT	: Neighborhood Association/Rukun Tetangga
RW	: Citizens Association/Rukun Warga
Satpol PP	: Municipal Police/Satuan Polisi Pamong Praja
SICC	: Sentul International Convention Center
SK	: Decree/ <i>Surat Keputusan</i>
SKB	: Joint Decree/ <i>Surat Keputusan Bersama</i>
SNP No. 2	: Standard Norms and Regulations Number 2 on the Right to Freedom of Religion and Belief
State Ministries Law	: Law Number 39 of 2008 on State Ministries
TII	: The Indonesian Institute, Center for Public Policy Research
TITD	: Tri Dharma Place of Worship/ <i>Tempat Ibadah Tri Dharma</i>
TNI	: Indonesian National Army/Tentara Nasional Indonesia
UDHR	: Universal Declaration of Human Rights
UN	: United Nations
YLBHI	: Indonesian Legal Aid Foundation/Yayasan Lembaga Bantuan Hukum Indonesia

Table List

Table 1.	Number of Religious Adherents in Indonesia in 2022.....	2
Table 2.	List of In-depth Semi-Structured Interview Participants ...	8
Table 3.	Number of Houses of Worship in Indonesia in 2022.....	16
Table 4.	Cases of Establishment of Houses of Worship (January 2023 - January 2024).....	26
Table 5.	Involvement of Each Party in the Construction of Houses of Worship	40

Executive Summary

Indonesia is a pluralistic nation of various tribes, religions, races, and ethnicities. The condition of Indonesia's diversity, of course, gives Indonesia a very high potential for conflict, one of which is conflict related to inter-religious matters. An issue that often becomes a conflict between religious communities is the conflict over the establishment of houses of worship.

Based on data from the Report on Freedom of Religion/Belief (*Kebebasan Beragama/Berkeyakinan/KBB*) in Indonesia in 2022, the trend of violations in 2022 shows that cases of disturbance of houses of worship have continued to experience a significant increase in the last six years. Furthermore, from 2023 until the beginning of January 2024, cases related to the issue of establishing houses of worship did not end.

In the context of freedom of establishing houses of worship, enforcement of the constitution is often hampered by implementing regulations, namely the Joint Regulation of the Minister of Religious Affairs and the Minister of Home Affairs Number 8 and 9 of 2006 (the 2006 PBM) which contains Guidelines for the Implementation of the Duties of Regional Heads/Deputy Regional Heads in Maintaining Religious Harmony, Empowering the Forum for Religious Harmony (Forum Kerukunan Umat Beragama/FKUB) and Establishing Houses of Worship. These requirements tend to be discriminatory and are poorly implemented by policy implementers.

Based on the above issues, The Indonesian Institute, Center for Public Policy Research (TII) conducted a qualitative study (November 2023 - February 2024) to evaluate the 2006 PBM to guarantee the right to freedom of religion and belief in Indonesia, especially in terms of supporting the establishment of houses of worship. This evaluation study uses Merilee S. Grindle's theory of policy implementation evaluation. This theory states that the assessment of policy implementation is determined by the policy content and implementation context.

This qualitative research applied concepts related to the right to freedom of religion and belief, the theory of legislation, and the theory of policy evaluation. Based on the research findings, the administrative requirements for constructing houses of worship in the 2006 PBM also make it difficult for adherents of minority religions and beliefs. The regional government and apparatus have not taken the approach of fulfilling human rights in resolving conflicts over establishing houses of worship. Meanwhile, there is still a mindset of majority domination in society.

Based on the findings, this research proposes to encourage the interpretation and implementation of the 2006 PBM based on the fulfillment of the protection of the right to freedom of religion and belief; revise the requirements for permits for the establishment of houses of worship that are discriminatory and multi-interpreted; create a comprehensive dispute resolution mechanism with binding results; improve human rights perspectives for police and Indonesian National Armed Forces (Tentara Nasional Indonesia/TNI) apparatus; increase public awareness of diversity and tolerance; optimize the performance of FKUB with adequate resource support, and conduct multi-stakeholder collaboration to support the fulfillment of the protection of the right to freedom of religion and belief.

Policy Paper

Evaluation of the Requirements for the Establishment of Houses of Worship in the Joint Regulation of Minister of Religious Affairs and Minister of Home Affairs Number 9 and 8 of 2006 for the Right to Freedom of Religion and Belief in Indonesia

Abstract

Indonesia is a pluralistic country with many tribes, religions, races, and ethnicities. However, conflicts between people of religions and beliefs occur throughout Indonesia, especially regarding the establishment of houses of worship. The establishment of a house of worship has requirements that are regulated in the 2006 PBM. However, these requirements tend to be discriminatory and are poorly implemented by policy implementers. In this research, The Indonesian Institute, Center for Public Policy Research (TII) discusses the implementation of the 2006 PBM, especially related to the rules of the requirements for the establishment of houses of worship; factors that become challenges and obstacles of the 2006 PBM, especially related to the rules of the establishment of houses of worship, and recommendations for improving the policy on the establishment of houses of worship to guarantee the right to freedom of religion and belief in Indonesia.

This qualitative research applied the right to freedom of religion and belief, the theory of legislation, and the theory of policy evaluation. Based on the research findings, the administrative requirements for constructing houses of worship in the 2006 PBM also make it difficult for adherents of minority religions and beliefs. The regional government and apparatus have not taken the approach of fulfilling human rights in resolving conflicts over establishing houses of worship. Meanwhile, there is still a mindset of majority domination in society. Based on these findings, this study proposes to encourage the interpretation and implementation of the 2006 PBM based on the fulfillment and protection of the right to freedom of religion and belief; revise the requirements for permits for the establishment of houses of worship that are discriminatory and multi-interpreted; create a comprehensive dispute resolution mechanism with binding results; improve human rights perspectives for police and army apparatus; increase public awareness of diversity and tolerance; optimize the performance of the Forum for Religious Harmony (Forum Kerukunan Umat Beragama/FKUB) with adequate resource support, and conduct multi-stakeholder collaboration to support the fulfillment and protection of the right to freedom of religion and belief.

Keywords: *The 2006 PBM, FKUB, religions and beliefs, establishment of houses of worship, conflict resolution.*

Introduction

Indonesia is a unitary state, a republic, with a presidential system of government. Indonesia adheres to the separation of executive power led by the president, the legislature with an asymmetrical bicameral form, consisting of the House of Representatives (Dewan Perwakilan Rakyat/DPR) and the House of Regional Representatives (Dewan Perwakilan Daerah/DPD), and the judiciary, consisting of the Supreme Court (Mahkamah Agung/MA) and the Constitutional Court (Mahkamah Konstitusi/MK). The division of power between the central and regional governments in Indonesia uses a decentralization system.

Indonesia is a pluralistic nation of various tribes, religions, races, and ethnicities. Furthermore, based on population census data conducted by the Central Statistics Agency (Badan Pusat Statistik/BPS) in 2020, Indonesia's population amounted to 270.2 million people spread across 17,508 islands from Sabang to Merauke. The condition of Indonesia's diversity also makes Indonesia have a very high potential for conflict. One of them is a conflict between religious communities. Indonesia has 6 (six) religions with majority adherents, namely Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism. Based on data the Ministry of Religious Affairs reported in 2022, the following is the number of adherents of each religion.

Table 1. Number of Religious Adherents in Indonesia in 2022

Religion	Total Population
Islam	241.699.189
Christian	20.647.769
Catholic	8.501.292
Hindu	4.692.548
Buddha	2.016.564
Confucianism	74.899

Source: <https://satudata.kemenag.go.id/dataset/detail/jumlah-penduduk-menurut-agama>, 2023.

An issue that often becomes a conflict between religious communities is the conflict over the establishment of houses of worship. President Joko Widodo (Jokowi), in his speech at the National Coordination Meeting of Regional Heads and Regional Leaders Communication Forum throughout Indonesia in 2023

at Sentul International Convention Center (SICC), Sentul, West Java, January 17, 2023, reminded regional heads to put the 1945 Constitution of the Republic of Indonesia (1945 Constitution) above the instructions of regents or mayors regarding the establishment of houses of worship. According to President Jokowi, Article 29 paragraph 2 of the 1945 Constitution explicitly guarantees religious adherents to worship their respective religions or native faiths (antaranews.com, 17/1/2023).

Based on data from the Report on Freedom of Religion/Belief (*Kebebasan Beragama/Berkeyakinan/KBB*) in Indonesia in 2022, the trend of violations in 2022 shows that cases of disruption of houses of worship have continued to experience a significant increase in the last six years. Throughout 2022, 50 houses of worship experienced disruption. This finding is a sizable number when compared to the previous five years. Furthermore, in 2022, of the 50 houses of worship that experienced disturbances in 2022, as many as 21 happened to churches (18 Protestant churches and 3 Catholic churches); 16 happened to mosques; 6 targeted monasteries; 4 happened to *musala* (prayer room); 2 targeted temples and 1 happened to a place of worship for native faith believers (tirto.id, 1/2/2023).

Based on the data above, it can be seen that the right to freedom of religion and belief is still a problem in Indonesia, especially in the issue of houses of worship. The Constitution has long guaranteed the right to freedom of religion and belief. However, in the context of the right to freedom of establishment of houses of worship, the enforcement of the constitution is often hampered by the implementing rules, namely the Joint Regulation of the Minister of Religious Affairs and the Minister of Home Affairs Number 8 and 9 of 2006 on Guidelines for the Implementation of the Duties of Regional Heads/Deputy Regional Heads in Maintaining Religious Harmony, Empowering the Forum for Religious Harmony (Forum Kerukunan Umat Beragama/FKUB) and Establishing Houses of Worship (the 2006 PBM).

In addition, based on the document study conducted, it was found that in terms of the establishment of houses of worship, many policy stakeholders still do not have clear roles. This is, for example, located in the 2006 PBM document itself, where the only stakeholder whose main duties and functions are explained

is the FKUB. However, other stakeholders mentioned, such as religious mass organizations, religious leaders, and the committee for constructing houses of worship, are only described definitively without including their duties and functions. The absence of legal clarity related to the parties in the 2006 PBM causes the possibility of misappropriation of their roles related to their involvement in the issue of establishing houses of worship. Misappropriation can occur because there is no legal basis for the authority of these parties, so there is a *legal vacuum* that unscrupulous parties can utilize.

Furthermore, the previous research report of The Indonesian Institute, Center for Public Policy Research (TII) on the Evaluation of the 2006 PBM Implementation (TII, 2015), found that policies related to establishing houses of worship are still full of discriminatory practices. While it is clear that as a form of public service guaranteed by the constitution, the policy on establishing houses of worship must be non-discriminatory.

These discriminatory practices are contained in the administrative requirements for establishing houses of worship. As written in Article 14 paragraph (2) letter a of the 2006 PBM, a list of names and Citizen Identification (ID) of users of the house of worship of at least 90 people authorized by regional government officials under the level of territorial boundaries. Then, in letter b, the village head needed to approve local residents support of at least 60 people. This administrative requirement often leads to conflict if not fulfilled. In addition, if the administrative requirements are met, the regional government is often intimidated into canceling the decision.

The problem of the minimum 90 users of houses of worship requirement and the approval of 60 local residents in the 2006 PBM also tend to be majority-biased (Mahaarum Kusuma Pertiwi, Constitutional Law Lecturer, Faculty of Law, Gadjah Mada University, interview on 1/12/2023). According to Mahaarum, the 90 and 60 figures do not consider the number of adherents of minority religions and their access to houses of worship. Not all religions can reach 90 adherents, and the surrounding local residents is not necessarily dense and can reach 60 people. The determination of this number generalizes the condition of all religions. The character of each religion themselves greatly affects the fulfillment of this requirement.

Another problem with the 2006 PBM is the weak regulation status in the hierarchy, which is only issued as a ministerial regulation. Therefore, since 2021, the Center for Religious Harmony (Pusat Kerukunan Umat Beragama/PKUB) of the Ministry of Religious Affairs has begun to follow up on the plan to improve the status of the 2006 PBM by drafting a Presidential Decree on Religious Harmony Preservation (Religious Harmony Presidential Decree Draft) (kemenag.go.id, 21/3/2021). In its development, the Chief Expert of the Presidential Staff Office (Kantor Staf Presiden/KSP), Rumadi Ahmad, said that the Religious Harmony Presidential Decree Draft would certainly strengthen FKUB. Rumadi also explained that the rules for establishing houses of worship were also listed while still using the old requirements, namely 90 users plus the support of 60 people from the local residents (metrotvnews.com, 12/8/2023). Consequently, these two rules are rules that still have the potential to cause discrimination for minority groups. Until now, the discussion of the Religious Harmony Presidential Decree Draft has been postponed ahead of the 2024 Elections.

Ihsan Ali-Fauzi of the Center for the Study of Religion and Democracy (Pusat Studi Agama dan Demokrasi/PUSAD) Paramadina Foundation noted (October 30, 2023) that in addition to the importance of revising the 2006 PBM, it is important to mention the basis for drafting the (new) Religious Harmony Presidential Decree Draft. PUSAD Paramadina also notes the concern of losing the initial spirit of the Reform because the role of regional governments is no longer primary, especially with the establishment of a national-level FKUB. PUSAD Paramadina suggests that the responsibility of regional governments be strengthened through the budget for maintaining FKUB. The presence of the National FKUB will potentially revive centralization like the New Order period and be counterproductive because it prolongs the path of conflict resolution and can become a 'wastebasket' for regional elites to throw problems at.

In addition, PUSAD Paramadina in their recommendation notes also suggested that there should be explicit provisions regarding 30 percent representation of women and encouraging diversity in age and profession. Furthermore, PUSAD Paramadina also encourages FKUB to become a facilitator or consultant for those who want to obtain a license to build a house of worship. In this case, PUSAD Paramadina supports eliminating FKUB's special function in the aforementioned Presidential Decree Draft to provide written recommendations related to the application to establish houses of worship. This is not only

considered troublesome for FKUB members, but also makes FKUB members 'can be bought', and makes FKUB forget its main task to strengthen harmony. On the other hand, PUSAD Paramadina maintains the 90/60 requirement that remains in the Religious Harmony Presidential Decree Draft, as long as it is not the only requirement and there are exceptions, given the complexity of this issue.

The polemics related to the permit to build houses of worship above are also exacerbated by the situation ahead of the General Elections and Regional Head Elections simultaneously in 2024, where hate speech based on religious identity politics is often voiced by politicians competing in elections (bbc.com, 22/9/2023), including in issues related to the establishment of houses of worship. Politicians competing in political contestation use identity politics to seek popularity among intolerant groups to support them. Therefore, based on the above issues, TII conducted a qualitative study (November 2023 - February 2024) to evaluate the 2006 PBM to guarantee the right to freedom of religion and belief in Indonesia, especially in terms of supporting the establishment of houses of worship.

Research Questions

This policy analysis tries to answer the following three questions:

1. How is the implementation of the 2006 PBM, especially related to the regulations for establishing houses of worship?
2. What factors are the challenges and obstacles of the 2006 PBM, especially related to regulating the establishment of houses of worship?
3. What are the recommendations to improve the policy on the establishment of houses of worship to guarantee the right to freedom of religion and belief in Indonesia?

Research Methodology

The research was conducted using a qualitative method with data collection through document studies and semi-structured in-depth interviews with relevant resources. Qualitative research was applied to provide deeper insights and strengthen findings (Denzin and Lincoln, 1994 in Wahyuni, 2015). Qualitative research was used to interpret the data obtained in depth by giving meaning to the data and processing it so that it can be understood (Neuman, 2014).

Furthermore, TII conducted this research ethically and applied applicable scientific principles. This was done, for example, by providing research information and asking for consent from interviewees and relevant parties to participate in this research.

In this qualitative research process, researchers collect detailed data from sources and literature related to the same research topic to develop research findings (Creswell, 2014). To obtain the data related to this research, TII used a document study and semi-structured in-depth interviews. This research was conducted from November 2023 to February 2024.

1) Document Study

Document study is the process of collecting and reviewing data from various literatures such as books, journals, theses, and other sources relevant to the problem or research objectives (Babbie, 2013). Document study is important to find and analyze the gap between policy and practice on this topic. Lindsay Prior (2004) argues that documents show relationships in society. Therefore, the documents will be analyzed by considering the human interactions underneath the text (Prior, 2004: 388). In this study, TII also investigated what was stated in the documents (research reports; journals; books; articles; news; presentations), cross-checked the findings with other references, and validated them through semi-structured in-depth interviews to contextualize the research and findings related to this study.

2) Semi-structured In-Depth Interview

This method seeks to elicit in-depth narratives by turning research questions into invitations for interviewees to tell their stories (Hollway & Jefferson, 1997). The interview process is usually conducted by having a natural conversation and using an interview guide to collect similar data from the interviewees. The interview guide also creates order as the researcher refers to a set of predetermined questions (Bridges et al., 2008). However, the interview process is often conducted flexibly, where both the researcher and the interviewee have the freedom to ask questions and seek further clarification of the information that has been provided. In addition, the researcher has the freedom to explore new questions that were not considered (Berg, Corbetta, Griffiee, and Ryan et al., in Mahat-Shamir et al., 2019).

In this study, semi-structured in-depth interviews were conducted to identify and understand the challenges and barriers to the implementation of the 2006 PBM, both in terms of content and context. In addition, the findings from the interviews were also used to evaluate the 2006 PBM, especially concerning permits for the establishment of houses of worship and problem-solving mechanisms related to the establishment of houses of worship. TII interviewed 22 resource persons from the government, religious leaders, religious organizations, community leaders, FKUB, academics, as well as NGOs and activists on diversity, law, and human rights issues. The following is the list of interviewees in this research.

Table 2. List of In-depth Semi-Structured Interview Participants

Affiliation	Number of Participants
PKUB Ministry of Religious Affairs	1
Department of Constitutional Law, Gadjah Mada University	1
Directorate General of Economic, Social, and Cultural Resilience, Ministry of Home Affairs	1
Syarif Hidayatullah State Islamic University	1
Wahid Foundation	1
National Commission on Human Rights	1
Indonesian Legal Aid Foundation	1
Fellowship of Churches in Indonesia	1
Indonesian Bishops' Conference	1
Parisada Hindu Dharma Indonesia	1
Union of Journalists for Diversity	1
High Council of Confucianism in Indonesia	1
Bogor City Government	1
Catholic Religious Leader	1
Setara Institute	1
High Council of Indonesian Beliefs	1
Indonesian Ombudsman	1
Deputy 5, Presidential Staff Office	1
Forum for Religious Harmony of Bogor City	1
Center for Religious and Cross-Cultural Studies, Universitas Gadjah Mada	1
Department of Public Administration, Jendral Soedirman University	1
Indonesian NGO Council	1
Total Interview Participants	22

3) Data Analysis

The data analysis process in qualitative research will go hand in hand with other parts/processes in the research (Creswell, 2014). For example, during the interview process, researchers can analyze the interview data/results by writing them down in memos and eventually the notes can be included as a narrative in the research report. In this research, TII analyzed various data found from the literature study and semi-structured in-depth interviews. The researchers focused on data that could be used to answer the research questions to make it easier to conceptualize and interpret the meaning of the existing data. Researchers tried to conceptualize the findings in the field using several concepts and theories that are referenced in this study. In addition, the researcher also confirmed the research sources when needed, considering that the results of this study are also the joint work of the researcher and the participants of this study.

Literature Review

Right to Freedom of Religion and Belief

In the context of the right to freedom of religion and belief, including regulating the right to worship, some international and national human rights instruments regulate it.

First, the Universal Declaration of Human Rights (UDHR) accepted and promulgated by the United Nations (UN) General Assembly on December 10, 1948, through Resolution 217 (A) III, through the provisions of Article 18 stipulates that “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

Secondly, the International Covenant on Civil and Political Rights (ICCPR) established by UN General Assembly resolution 2200 A (XXI) dated December 16, 1966 and ratified by Indonesia through Law Number 12 of 2005 regulates among others:

- a) Article 18 paragraph (1) stipulates that “Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom

to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching.”

- b) Article 18 paragraph (3) stipulates, “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.”

Third, UN General Comment No. 22 on Freedom of Religion and Belief:

- a) Point 1 states that “The right to freedom of thought, conscience, and religion (which includes the freedom to hold beliefs) in article 18.1 is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others. The Committee draws the attention of States parties to the fact that the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief. The fundamental character of these freedoms is also reflected in the fact that this provision cannot be derogated from, even in time of public emergency, as stated in article 4.2 of the Covenant.”
- b) Point 4 states that “The freedom to manifest religion or belief may be exercised ‘either individually or in community with others and in public or private’. The freedom to manifest religion or belief in worship, observance, practice, and teaching encompasses a broad range of acts. ...”

Fourth, the 1945 Constitution:

- a) Article 28E paragraph (1) states that “Every person is free to choose and to practice their choice of religion, to choose education and schooling, to choose employment, to choose citizenship, and to choose their residences within the state territory and to leave, and to which shall have the right to return.”
- b) Article 28E paragraph (2) states, “Every person has the right to freedom of belief, and to express thoughts and tenets, following their conscience.”
- c) Article 29 paragraph (1) defines Indonesia as “The state is based upon the belief in the One and Only God.”
- d) Article 29 paragraph (2) affirms that “The state guarantees the freedom of religion for each citizen and to practice such religion and belief accordingly.”

Fifth, Law Number 39 of 1999 on Human Rights (Human Rights Law):

- a) Article 4 states that “The right to life, the right to not to be tortured, the right to individual freedom, to freedom of thought and conscience, religion, the right not to be enslaved, the right to be recognized as an individual and equal before the law, and the right not to be prosecuted retroactively under the law are human rights that cannot be derogated under any circumstances whoever.”
- b) Article 22 paragraph (1) states, “Every person is free to choose his/her religion and to worship according to his/her religion and beliefs.” What is meant by “free to choose his/her religion and to worship according to his/her religion and beliefs” is the right of every person to practice religion according to his own beliefs, without coercion from anyone else.
- c) Article 22 paragraph (2) stipulates that “The State guarantees freedom for every person to choose and practice his/her religion and to worship according to his/her religion and beliefs.”

Based on the regulations and human rights instruments mentioned above, it can be understood that in principle, freedom of religion and belief, which includes the right to worship, is universal, inalienable, indivisible, interconnected, and interrelated. Therefore, based on Standard Norms and Regulations Number 2 on the Right to Freedom of Religion and Belief (SNP No. 2) issued by the National Commission on Human Rights (Komisi Nasional Hak Asasi Manusia/Komnas HAM) (2020), in summary, the right to freedom of religion and belief covers two aspects, namely:

- a) Freedom to choose and establish, including not choosing and establishing, a religion or belief of one’s choosing; and
- b) Freedom to practice religion or belief alone or together with others, either in public or private, through worship, observance, practice, and teaching.

The freedom to choose and establish religion or belief, including not to select and establish, cannot be coerced as it would violate individual freedom of religion or belief. In addition, the freedom to practice religion or belief can only be restricted by law in the interest of protecting security, order, health, public morals, or the rights and fundamental freedoms of others. The juridical implication is that the state must respect by allowing and not disturbing its citizens’ right to freedom

of religion and belief and guaranteeing respect for it. The state is obliged to form legislation or policy to protect the rights and be active to watch if there is a disturbance.

Some human rights experts who provide views on the right to freedom of religion and belief include Tore Lindholm. He emphasizes the importance of respect for the public doctrine of the right to freedom of religion and belief inherent in every human being regardless of their respective religious doctrines and worldviews (Hafiz, 2014). Meanwhile, Manfred Nowak and Tanja Vospernik (2010) emphasize that the government in terms of the right to freedom of religion and belief is a key actor in discriminatory policies in favor of the majority group and against other minority religions and beliefs.

In the context of human rights, the state is obliged to guarantee the right to freedom of religion and belief, including the right to worship for its adherents, whether carried out in a particular place or location, either closed or open. Thus, the context of the house of worship is interpreted broadly as a means of worship for adherents of religion or belief. On the other hand, there are new developments regarding the definition of a place of worship which has a more complex meaning than the definition of a house of worship as understood so far, including in Indonesian regulations.

Based on Article 1 paragraph (3) of the 2006 PBM, a house of worship is a building with certain characteristics specifically used for worship for adherents of each religion permanently, excluding family worship. A place of worship can also be understood functionally with a house of worship, namely a building or facility that can be used at any time as a means of worship, both by a community of religious adherents and family worship. Thus, the context of place also includes indigenous peoples' claims to property or land closely related to their access to sacred and holy places in that location.

However, this study focuses more on the aspect of houses specifically intended for worship, not places of worship, because the scope of places of worship is much broader. This is also following the 2006 PBM, which regulates houses of worship, not places of worship. The TII study departs from the argument that the establishment and use of houses of worship must be based on the real needs of the adherents and the government is obliged to facilitate the permit of

the establishment and usage of houses of worship. The definition of facilitation refers to concrete efforts to help realize the needs of houses of worship, instead of hindering the establishment or use of houses of worship for administrative reasons.

Policy Implementation Evaluation Theory

The policy implementation used in this study is Merilee S. Grindle's policy implementation evaluation theory. This theory states that the evaluation of policy implementation is determined by the policy content and implementation context. According to Grindle (in Wibawa, 1994: 22), *policy content* indicates problematic if it fails to complete the following:

- 1) *Interests affected by the policy.* Policies that involve many different interests are more difficult to implement than those that involve few interests;
- 2) *The type of benefits to be generated.* Policies that provide actual benefits and not just formal, ritual, and symbolic ones to many actors are easier to implement than those that are less beneficial;
- 3) *Degree of change desired.* Policies that require changes in attitudes and behavior are usually difficult to implement. Policies with long-term goals are also more difficult to implement than those with short-term goals. Policy benefits are influenced by the changes desired by the policy;
- 4) *Position of the policymaker.* The position of the policymaker will affect how the policy is implemented because the position of the actors has different centers of power;
- 5) *Program Implementers.* People who are responsible for the successful implementation of the policy. A high level of expertise, dedication, and ability will affect the policies they handle; and
- 6) *Resources involved.* The sources used in the program, the form, size, and origin of the resources will determine the implementation and success of the policy. Resources required during the policy process.

The policy context affects the implementation process. What Grindle (in Wibawa, 1994: 22-25) means by *policy context* are:

- 1) *Power, interests, and strategies of the actors involved.* Program implementation will involve various actors from various levels, both government and non-government, who have different methods and interests;

- 2) *Characteristics of institutions and authorities.* The implementation outcome is the result of interactions within an institution; and
- 3) *Compliance and responsiveness of implementers.* Implementers are expected to obey the rules in a policy and respond to what the target group wants.

In this case, the intensity of involvement of planners, politicians, people in business, target groups, and program implementers will be mixed in influencing the effectiveness of policy implementation.

Theory of Legislation

This research uses the theory of legislation as one of the references to analyze this research topic. As an analysis of legislation, this research examines legislation as a product made by authorized officials (Indrati, 2007). This theoretical frame is important to evaluate the 2006 PBM, especially in terms of permits for the establishment of houses of worship, so that it can be directed into policies in the national legal system that guarantee the protection of the rights and obligations of the parties concerned.

The process of law formation is regulated in Law Number 12 of 2011 concerning the Formation of Legislation as amended by Law Number 15 of 2019 and Law Number 13 of 2022 (Legislation Law). The law explains that forming law as a legal policy inherently starts from the stages of planning, preparation, drafting techniques, formulation, discussion, ratification, enactment, and dissemination. In addition to the process of forming legal products, Legislation Law contains the hierarchy of laws and regulations.

A. Hamid S. Attamimi, who tries to compare Hans Kelsen's theory and Hans Nawiasky's theory with the legal structure prevailing in Indonesia, states that the type and hierarchy of laws and regulations in Indonesia as stipulated in Article 7 paragraph (1) of Legislation Law adheres to the theory of hierarchy proposed by Kelsen. The order of laws and regulations in force in Indonesia is as follows (Apendi, 2021):

- 1) 1945 Constitution;
- 2) Decree of the People's Consultative Assembly;
- 3) Law/Government Regulation in Lieu of Law;

- 4) Government Regulation;
- 5) Presidential Decree;
- 6) Provincial Regional Regulations; and
- 7) Regency/City Regional Regulation.

In addition to the types of laws and regulations mentioned in Article 7 paragraph (1) of Legislation Law, Article 8 paragraph (1) of the *a quo* law mentions other types of laws and regulations which include: regulations stipulated by the People's Consultative Assembly of the Republic of Indonesia (Majelis Permusyawaratan Rakyat/MPR RI), the House of Representatives of the Republic of Indonesia, the Regional Representative Council of the Republic of Indonesia, the Supreme Court, the Constitutional Court, the Supreme Audit Agency (Badan Pemeriksa Keuangan/BPK), the Judicial Commission (Komisi Yudisial/KY), Bank Indonesia (BI), Ministers, agencies, institutions, or commissions of the same level established by law or the Government by law, the Provincial People's Representative Council (Dewan Perwakilan Rakyat Daerah/DPRD), Governors, Regency/City DPRD, Regents/Mayors, Village Heads or equivalent. The types of laws and regulations mentioned above are recognized and have binding legal force as long as the basis for their enactment is ordered by higher laws and regulations or formed based on authority.

The applicable norms are sourced from higher applicable legal norms, sourced and based on higher legal norms, and so on up to a basic state norm (*staatsfundamentalnorm*) of the Republic of Indonesia, namely Pancasila (Indrati, 2007). The hierarchy of laws and regulations aims to determine the degree of each to create a harmonious system of laws and regulations (harmony, suitability, compatibility, balance). Meanwhile, disharmonious is the existence of boundaries of differences, things that are in tension, and awkward.

In the Indonesian system of legislation, the legal principles of *lex superior*, *lex specialis*, and *lex posterior* still apply. *Lex superior derogat legi inferiori* means that lower laws must not contradict higher ones. *Lex specialis derogat legi generali* means that a more specific regulation overrides a more general one. Meanwhile, *lex posteriori derogat legi priori* means that the more recently passed law supersedes the old one (Branch and Hening, 1824).

Findings and Discussions

Article 28E paragraph (1) of the 1945 Constitution enshrines the right to freedom of religion and belief in Indonesia. The article states that everyone is free to embrace a religion and worship according to their religion, choose education and teaching, choose a job, choose citizenship, choose a place to live in the state's territory and leave it, and have the right to return. Furthermore, Article 28E paragraph (2) of the 1945 Constitution states that everyone has the right to freedom of belief. In addition, Article 28I paragraph (1) of the 1945 Constitution also recognizes that the right to religion and belief is a human right. Also, Article 29 paragraph (2) of the 1945 Constitution also states that the state guarantees the freedom of each resident to embrace religion.

Based on the 1945 Constitution, all religions and beliefs are guaranteed freedom to be embraced by Indonesian citizens. The limitation is that the freedom to practice religion and belief does not conflict with the freedom of others, as stated in Article 28J paragraph (1) of the 1945 Constitution which stipulates that everyone must respect the human rights of others. However, policies derived from the 1945 Constitution regulating the life of religion and belief in Indonesia often contain discrimination, especially for minority groups of religion or belief.

One example of such policy is a policy that regulates the establishment of houses of worship. Based on data from the Ministry of Religious Affairs, in Indonesia in 2022 there were 393,711 houses of worship of various religions with the following details.

Table 3. Number of Houses of Worship in Indonesia in 2022

Province	Mosque	Christian Church	Catholic Church	Hindu Temple	Monastery	Confucian Temple	Total
Aceh	4.408	189	20	12	22	25	4.676
North Sumatra	10.831	12.499	2.439	48	334	260	26.411
West Sumatra	5.450	340	115	3	3	10	5.921
Riau	7.100	3.012	408	17	102	230	10.869
Jambi	4.471	623	96	4	23	35	5.252
South Sumatra	9.538	609	234	360	82	103	10.926
Bengkulu	3.208	156	150	29	15	3	3.561

Province	Mosque	Christian Church	Catholic Church	Hindu Temple	Monastery	Confucian Temple	Total
Lampung	12.338	985	410	680	143	5	14.561
Kep. Bangka Belitung	1.048	240	31	14	72	249	1.654
Riau Islands	1.988	637	100	5	100	115	2.945
DKI Jakarta	3.565	1.299	199	17	148	46	5.274
West Java	61.142	2.380	248	51	147	84	64.052
Central Java	51.485	2.904	565	199	437	88	55.678
DI Yogyakarta	8.343	359	102	23	21	2	8.850
East Java	51.404	2.737	603	556	167	126	55.593
Banten	8.885	966	71	7	112	32	10.073
Bali	250	514	60	10.717	51	34	11.626
West Nusa Tenggara	5.463	83	21	474	48	4	6.093
East Nusa Tenggara	910	3.642	1.089	40	2	9	5.692
West Kalimantan	4.512	3.568	2.891	20	207	462	11.660
Central Kalimantan	2.354	1.121	438	103	20	10	4.046
South Kalimantan	2.805	311	81	98	24	3	3.322
East Kalimantan	3.202	1.638	413	44	16	4	5.317
North Kalimantan	697	600	167	3	9	5	1.481
North Sulawesi	1.082	5.639	289	117	20	18	7.165
Central Sulawesi	4.054	2.262	206	487	16	30	7.055
South Sulawesi	14.763	2.552	491	128	32	38	18.004
Southeast Sulawesi	3.581	320	89	292	14	0	4.296
Gorontalo	2.602	198	18	37	2	7	2.864
West Sulawesi	2.685	1.238	124	120	3	1	4.171
Maluku	1.337	1.495	242	30	4	9	3.117
North Maluku	1.164	1.138	74	2	1	2	2.381
Papua	417	4.167	1.221	75	25	29	5.934
West Papua	463	2.448	243	14	14	9	3.191

Source: <https://satudata.kemenag.go.id/dataset/detail/jumlah-rumah-ibadah> (2022).

Based on the data above, the large number of houses of worship in Indonesia has led the government to make policies to regulate houses of worship. One of the policies related to houses of worship is Law Number 28 of 2002 on Building (Building Law) which has been amended in Government Regulation

in Lieu of Law Number 28 of 2022 on Job Creation (Government Regulation on Job Creation). The 2006 PBM used a building permit system called Building Construction Permit (*Izin Mendirikan Bangunan/IMB*) in the Building Law. With the Government Regulation on Job Creation, the IMB policy has been changed to Building Approval (*Persetujuan Bangunan Gedung/PBG*) with a different system from IMB.

In short, the differences between IMB and PBG are elementary, such as the time required for each permit, the functions of the building that need to be reported, and the sanctions for not reporting. PBG is in fact easier to obtain than IMB due to fewer requirements and more flexibility. However, there are sanctions for not reporting PBG. This is different from the previous IMB policy. The change in permit regime from IMB to PBG shows that the 2006 PBM is no longer relevant in regulating the licensing of construction of houses of worship. If the 2006 PBM does not adjust to the new PBG permit regime, this will lead to legal uncertainty in the implementation of PBG. Furthermore, this has the potential to confuse policy implementers and the public, as well as legal uncertainty, including permits for the establishment of houses of worship.

Historically, state regulations on establishing houses of worship in Indonesia can be found in two regulations. *First*, the Joint Decree of the Minister of Religion and the Minister of Home Affairs Number 01/BER/MDN-MAG/1969 (1969 SKB) concerning “Implementation of the Tasks of Government Apparatus in Ensuring Order and Ease in the Implementation of Religious Development and Worship by its Adherents” (Ali-Fauzi, et al., 2011).

Second, the 2006 PBM which contains Guidelines for Implementing the Duties of Regional Heads/Deputy Regional Heads in Maintaining Religious Harmony, Empowering Religious Harmony Forums and Establishing Houses of Worship.

The 1969 SKB regulates the requirements for the establishment of houses of worship. In Article 4 of the 1969 SKB, the provisions for the establishment of houses of worship are as follows (ed. Gultom, 2006):

- 1) Every establishment of a house of worship needs to obtain a permit from the Regional Head or the government official under him who is authorized to do so.

- 2) The Regional Head or the official referred to in paragraph (1) of this article grants the license in question, after considering the following:
 - a. opinion of the Head of the Regional Religious Affairs Department;
 - b. Planology; and
 - c. local conditions and circumstances.
- 3) If deemed necessary, the Regional Head or their designee may seek the opinion of local religious mass organizations and scholars.

This policy was created to regulate the establishment of houses of worship so as not to trigger conflict. However, implementation in the field shows that the regulation is used to restrict non-Muslim groups, especially Christians, making it difficult for them to establish new houses of worship. One of the requirements that must be met is permission from other religious communities around the place where the place of worship will be built. As a solution, they use their residence as a temporary house of worship. However, this has led to other problems with other religious communities in the vicinity (ed. Gultom, 2006).

The existence of various problems regarding the establishment of houses of worship at the field level shows that the rules and policies are made with less planning. Many spaces lead to different interpretations that trigger acts of discrimination, especially against religious minorities. The dictum that causes the most problems is paragraph (3), which is very vague and can be interpreted differently. In practice, this article is used by Regency/City Governments and religious organizations to obstruct the establishment of houses of worship. The term “local” itself is also a problem because the scope of “local” is not determined. What often happens in the field is that the establishment of a house of worship in one location is often obstructed by religious organizations from other regions (other districts or regencies) (ed. Gultom, 2006).

Along with the collapse of the New Order and seeing the dynamics related to the rampant cases of closing houses of worship, the government through the Ministry of Religious Affairs and the Ministry of Home Affairs issued the 2006 PBM. The 2006 PBM is a derivative of the 1945 Constitution, whose position is regulated in Legislation Law. In essence, PBM is a Ministerial Regulation and its existence is recognized and has binding legal force as long as it is ordered by higher laws and regulations or formed based on authority. As with the 1969 SKB, the implementation of the 2006 PBM is also not free from polemics. For

example, concerning the addition of regulations on permits for the establishment of houses of worship; opposition from the surrounding community and adherents of different religions; multiple interpretations of the provisions in the 2006 PBM by regional governments, and the non-optimal role of FKUB. The following section will provide further explanation of the implementation of the 2006 PBM.

Implementation of the 2006 PBM Related to the Rules for the Establishment of Houses of Worship

Based on its nature, the 2006 PBM is categorized as *regeling*. *Regeling* is a government action in public law in the form of a general regulation. The meaning of the word in general in the definition of *regeling* means to regulate all citizens without exception, or in other words, this regulation is addressed to all citizens without exception and is not specific. As such, the 2006 PBM is abstract (containing norms that still need to be elaborated) and not final (cannot be directly executed). The 2006 PBM is also a delegation of higher regulations, namely Law Number 32 of 2004 on Regional Government (2004 Regional Government Law) and hierarchically also contained in the Legislation Law, of which one is a ministerial regulation.

The 2006 PBM is different, for example, from the Joint Decree of the Minister of Religious Affairs Number 3 of 2008, the Attorney General Number Kep-033/A/JA/6/2008, and the Minister of Home Affairs Number 199 of 2008 on Warnings and Orders to Adherents, Members, and/or Members of the Management of the Indonesian Ahmadiyah Congregation (Jemaat Ahmadiyah Indonesia/JAI) and Community (2008 SKB). This joint regulation is categorized as *beschikking* because it is individual (addressed to adherents, members, or administrators of JAI), concrete (related to the prohibition of certain activities), and final (directly executable). This 2008 SKB may have been made as an order of Presidential Decree Number 1 of 1965 on the Prevention of Abuse and/or Blasphemy of Religion, which is still in effect today.

In its implementation, the 2006 PBM becomes the basis for complicating the people of religion and belief to establish a house of worship. Several provisions in the 2006 PBM become the basis of the problem in this policy, namely Article 14 paragraph (2) letter a states that a list of names and ID cards of users of houses of worship is required at least 90 people authorized by regional government

officials according to the level of territorial boundaries. Furthermore, in Article 14 paragraph (2) letter b, it is stated that the support of the local residents of at least 60 people is required, which is authorized by the village head. The issue of administrative requirements is what usually leads to problems that lead to conflict. In addition, Article 14 paragraph (2) letter c states that one of the requirements for establishing a house of worship is to obtain a recommendation from the FKUB of the Regency or City.

The interview findings of this research noted several problems with the 2006 PBM. Among them is the 2006 PBM, an administrative policy that does not guarantee and fulfill rights related to the establishment of houses of worship. This is also seen in cases that show the use of the 2006 PBM as the main requirement and also complicate the permit for the construction of houses of worship for adherents of minority religions, including groups of native faith believers. However, for native faith believers it has been included in the Religious Harmony Presidential Decree Draft which is currently pending discussion. Thus, the 2006 PBM is considered discriminatory and not inclusive and does not have the perspective of fulfilling the right to worship.

The regulation on the number of ID cards to support the license to establish a house of worship has also segregated the community and caused majority sentiment due to the government not understanding the dynamics of religious life and beliefs. Furthermore, the interview findings of this research also noted that the level of PBM in the hierarchy of laws and regulations is considered low and with the existing complexity, the problem of establishing houses of worship still occurs. Moreover, when the state is not prepared to address conflicts. In other words, the 2006 PBM is considered an incomplete understanding of the context of living religion and belief in Indonesia.

Problems in implementing these articles include, *firstly*, the influence of intolerant figures or groups at the regional level to pressure the head of the region to reject the establishment of houses of worship. *Second*, the lack of socialization of the 2006 PBM causes inequality of views on the implementation of the 2006 PBM at the regional government and FKUB level. *Third*, problems in FKUB recruitment that allow for majority domination. *Fourth*, the work programs and activities of

FKUB are unclear. FKUB activities mostly involve visits/studies abroad and to regions but do not address the problems in the regions themselves (TII, 2015).

Similar to the results of the TII (2015) study, the interview findings of this research also noted problems related to FKUB. For example, the 2006 PBM with the requirement of three levels of permit has also made the license to establish a house of worship more complex, where the role of FKUB is also considered absurd in granting permits for houses of worship. FKUB, composed of representatives of the majority religion, is also considered out of sync with the regional government. Not to mention the problem of low human resource capacity and issues related to funding and FKUB offices that are still limited and do not support FKUB functions.

In the case study of establishing houses of worship, specifically mosques in Kupang, East Nusa Tenggara, and the closure of churches in Gunung Kidul, Yogyakarta, Ihsan Ali-Fauzi (2019) argues that the FKUB tends to exacerbate disputes rather than serving as an institution that should assist in conflict resolution. This case study notes that the FKUB needs to uphold its impartiality towards conflicting parties and enhance its ability to mediate conflicts. The FKUB's dependence on regional governments, which are susceptible to political manipulation, and its decisions dominated by representatives of the majority religion have rendered it a partisan institution that cannot be relied upon for resolving disputes.

Ultimately, both cases were resolved without the involvement of the FKUB at all. Civil society's role in peacebuilding, diversity promotion, and interfaith harmony, along with firm and neutral regional governments, successfully ended conflicts related to houses of worship through approaches involving diverse stakeholders, dialogue, tolerance education, diversity promotion, and collaboration between the government and civil society.

In addition to the 2006 PBM, the establishment of houses of worship in Indonesia is also regulated by other policies, such as Building Law. Article 5 of the Building Law states that the functions of building construction include residential, religious, commercial, social and cultural functions, as well as special functions, where one function can be accompanied by other functions. Regarding the licensing of houses of worship, building constructions for religious functions are limited to mosques, churches, Hindu temples, monasteries, and Confucian

temples. The location must also comply with the Regional Regulation concerning Spatial Planning (Azhari, 2014).

In regencies and cities, the functions of building constructions are determined in the form of IMB, which, if changes occur, must be re-determined by the regional government. Article 7 of the Building Law requires two things in establishing houses of worship. *First*, administrative requirements (land ownership status, building ownership status, and IMB). *Second*, technical requirements, such as building layout requirements and building reliability requirements. These two requirements are not sufficient, as the 2006 PBM mentions other requirements as elaborated above (Azhari, 2014).

On the other hand, as previously explained, with the enactment of the Government Regulation on Job Creation, the IMB policy has been transformed into PBG with a different system from IMB. Thus, the implementation of the 2006 PBM should also be adjusted according to the current provisions, especially concerning permits for the establishment of houses of worship, particularly in terms of building constructions proposed to be houses of worship. In this regard, PBG should simplify the process of obtaining permits for the establishment of houses of worship because its requirements are relatively fewer and more flexible compared to IMB.

Furthermore, referring to existing legislation, the government should guarantee the right to freedom of worship. There should be regulations to ensure that existing policies do not further complicate or even discriminate against the needs of religious followers and native faith believers to establish houses of worship and practice their religion or belief accordingly. As noted in the study by Prasetyo et al. (2013), this is also stipulated in Article 25 of the ICCPR, which states that restrictions on the right to freedom of religion or belief must not negate equal access to public services in the country. Restrictions must also be guaranteed by law and must not violate guaranteed rights in Article 18. Restrictions must not be applied in a discriminatory manner and for discriminatory purposes.

Similar to the findings of the TII research, the study conducted by the Komnas HAM in 2020 mentioned that the regulations regarding the establishment of houses of worship in the 2006 PBM created several problems due to administrative requirements that complicated the licensing process. Various

requirements, from the perspective of the right to freedom of religion and belief, were deemed to hinder the establishment of houses of worship, especially for minority groups. Echoing a report from Radio News Office (Kabar Berita Radio/KBR) (2023), Member of Commission VIII of the Indonesian House of Representatives Esti Wijayanti, emphasized the importance of clear and binding regulatory strengthening to facilitate the establishment of houses of worship. She also expressed appreciation to the Minister of Religious Affairs Yaquut Cholil, who planned to change the requirements for establishing houses of worship by requiring only one recommendation, namely from the Ministry of Religious Affairs. However, this proposal may not address all existing issues given that the issue of building houses of worship in Indonesia is highly complex and tends to be complicated. It is not only related to difficult permit bureaucracy but also to religious and belief moderation, the role of FKUB, political willingness from the government, and other factors (KBR, 2023).

In line with the statements made by Komnas HAM and a Member of the Indonesian House of Representatives (DPR RI), Setara Institute, in an interview with KBR (29/12/2019), expressed that there are still many cases of intolerance among religious and belief communities. The existence of the 2006 PBM with its various discriminatory requirements will exacerbate the situation. Additionally, a report by the Center for Religious and Cross-cultural Studies at Gadjah Mada University (CRCS UGM) (2012) also noted that the 2006 PBM has not provided a comprehensive mechanism for conflict resolution. Without discrediting the mediation efforts that have been attempted, such as in the cases of GKI Taman Yasmin and HKBP Filadelfia, mediation also needs to consider the process, aspects of justice, and the restoration of social relationships within society. These aspects are not widely found in cases of mediation regarding conflicts over the construction of houses of worship.

The implication of this is the presence of many religious communities forced to worship in their respective places without legal status or permits. Although Article 14 paragraph (3) of the 2006 PBM mandates regional governments to facilitate the availability of locations for the construction of houses of worship, in reality, cases of failed establishment of houses of worship in several regions still occur. In some cases, regional governments fail to fulfill their obligations as stipulated in the aforementioned Article 14 paragraph (3).

On the other hand, several regional governments create policies that go beyond or even contradict the 2006 PBM. This is due to politics in regions that utilize sectarian sentiments and are based on religious identity or the obedience of regional governments to certain public pressures. This condition is evident, for example, in Aceh, Bali, and Papua. In Bali, there is Bali Governor Regulation Number 10 of 2006 on Procedures and Provisions for the Construction of Houses of Worship for the Public in the Bali Province Region (Bali Governor Regulation), while in Papua, there is a Regional Regulation prohibiting the construction of new houses of worship (other than the Indonesian Church) in Tolikara. Additionally, a similar situation occurs in Aceh, where Aceh Governor Regulation Number 25 of 2007 on Guidelines for the Establishment of Houses of Worship (Aceh Governor Regulation) contradicts the 2006 PBM, as it requires 150 IDs certified by regional government officials and in line with its territorial boundaries, as well as support from at least 120 local residents. Discriminatory policies like these hinder the right to freedom of worship and lead to conflicts among communities in Indonesia.

Based on official statements from Setara Institute, from 2007 to 2022, there were 140 cases of vandalism and 90 cases of rejection of houses of worship, with 32 incidents of disruption to houses of worship occurring only from January to September 2022. Among these incidents, there were 15 disruptions predominantly experienced by Ahmadiyya mosques, which differ from mainstream Muslim groups. In these mosque disruption incidents, the disturbances mostly came from within the religion itself, i.e., from fellow Muslims in predominantly Islamic areas. Apart from mosques, disruptions to viharas increased, with 4 disruptions occurring in West Java, North Sumatra, and South Sumatra. The number of vihara disruptions in 2022 was higher compared to 2020 and 2021, which only had 1 incident. Disruptions to viharas occurred because viharas were planned to be built in predominantly Muslim areas, leading to concerns about Buddhization (setara-institute.org, 16/11/2022).

As of 2022, the conflict over the construction of the Maranatha Protestant Christian Huria Church in Cilegon has not been resolved because it has met the administrative requirements, namely the support of the surrounding community in the required amount. However, the church construction process is hindered at the sub-district level, and no recommendation has been given by the FKUB

(kbr.id, 23/12/2022). This condition is one of the reasons for the emergence of religious conflicts regarding the existence of houses of worship. Based on media monitoring conducted by TII from January 2023 to January 2024, there were 15 cases related to the establishment of houses of worship. These cases can be seen in the following table.

**Table 4. Cases of Establishment of Houses of Worship
(January 2023 - January 2024)**

No	Case	Month	Location
1	Rejection of the Establishment of the Wesleyan Indonesia El Shadai Church	February	Sleman, DI Yogyakarta
2	Disbandment of worship of the Congregation of the Church of Kemah Daud (GKKD)	February	Bandar Lampung
3	Rejection of the construction of the Al Madinah Mosque in Palembang City	February	Palembang City, South Sumatra
4	Rejection of the Construction of a Church in Gedangan	March	Malang, East Java
5	Sealing of the Simalungun Protestant Christian Church (GKPS)	April	Purwakarta, West Java
6	Difficulty in Establishing the Rhema Sandubaya Indonesian Evangelical Church	May	Mataram, West Nusa Tenggara
7	Sealing of the Indonesian Christian Church Future Congregation (Bajem)	June	East Jakarta, DKI Jakarta
8	Rejection of the establishment of the church and Sunday school GKJ Nusukan	June	Solo, Central Java
9	Rejection of the establishment of the Bethel Indonesia Church (GBI)	June	Bandung Regency, West Java
10	Rejection of the construction of the Indonesia Pentecostal Missionary Church (GUPDI)	August	Batam, Riau Islands
11	Rejection of the establishment of a vihara in Cimacan Village, Cianjur	August	Cianjur, West Java
12	Rejection of the establishment of the Indonesian Pentecostal Church (GPdI)	September	Samarinda, East Kalimantan
13	Rejection of the establishment of the Bethel Indonesia Church (GBI) Gihon	September	Pekanbaru, Riau
14	Disbandment of worship of the Mawar Sharon Church	October	Deli Serdang, North Sumatra
15	Islamic Center Foundation Padang Jopang	January	Lima Puluh Kota Regency, West Sumatra

Source: *Compiled from various sources.*

The cases observed and occurring in 2023 largely affected the establishment of churches. However, issues in the establishment of houses of worship are also felt by adherent groups. One incident that befell the adherent group in 2020 was the case of the rejection of the construction of the Karuhun Urang Tradition (Adat Karuhun Urang/AKUR), Sunda Wiwitan community cemetery by the Regional Government of Kuningan Regency. The location of the cemetery construction in Curug Go'ong was chosen not only because of the place for the final resting place of community figures but also because the construction site was private land. However, the construction site was sealed by the Municipal Police (Satuan Polisi Pamong Praja/Satpol PP) of Kuningan Regency on the grounds of not having a IMB, as the cemetery building was considered to fall into the category of non-building structures such as monuments. Additionally, opposition from hundreds of Islamic organizations and rejection from the Indonesian Ulema Council (Majelis Ulama Indonesia/MUI) of Cisantana Village further hindered the progress of construction (Komnas HAM, 2020).

Based on an interview with Engkus Ruswana, a member of the Central Consultative Assembly of the Supreme Council of Belief in God Almighty Indonesia (Majelis Luhur Kepercayaan terhadap Tuhan Yang Maha Esa Indonesia/MLKI), the adherent community is not bound by the 2006 PBM. The regulation regarding houses of worship for adherents is governed by the Joint Regulation of the Minister of Home Affairs and the Minister of Culture and Tourism Number 43 of 2009 and Number 41 of 2009 on Guidelines for Service to Believers in the God Almighty (the 2009 PBM), thus not subject to the establishment requirements as stipulated in the 2006 PBM. In Article 10 of the 2009 PBM, which regulates adherents, it is stated that the assembly hall or other designations as referred to in Article 9 must meet administrative requirements and technical building requirements following the provisions of laws and regulations.

Furthermore, in Article 11 paragraph (1) of the 2009 PBM, it is mentioned that believers of native faith who propose for a building permit for the provision of an assembly hall or other designation with a new building as referred to in Article 9 paragraph (2) to the Regent/Mayor. Then, in Article 11 paragraph (2), the Regent/Mayor shall make a decision no later than 90 (ninety) days from the receipt of the application for the establishment of an assembly hall or other designation that has fulfilled the requirements as referred to in paragraph (1).

According to Engkus, in terms of numbers, the rejection of houses of worship for native faith believers' communities is not as frequent as that experienced by minority religious groups in Indonesia. native faith believers usually perform rituals at the homes of elders. The issues also vary greatly depending on the community and its environment. Such as the case of the destruction of the Sapta Darma place of worship in 2015 in Rembang Regency, Central Java (cnnindonesia.com, 11/11/2015). Previously, in 2012, in Larangan District, Brebes, the Sapta Darma Ashram, which was performing rituals facing the east, was protested by residents for being considered a deviant sect (gatra.com, 11/7/2016).

In general, according to Engkus, the implementation of the 2006 PBM is not problematic because native faith believers are not directly regulated by those rules. Additionally, native faith believers' houses of worship are not like houses of worship for religious groups, which are specifically for regular use. Thus, although not directly regulated in the 2006 PBM, discrimination issues also occur against adherent groups. This is also a concern for revising the regulations for obtaining permits for the establishment of houses of worship for all groups, including adherents.

In response to the issues surrounding the establishment of houses of worship, the Ministry of Home Affairs believes that the central government has been providing guidance and supervision to regional governments in implementing regulations related to religious harmony and beliefs in the regions. Ministry of Home Affairs also claims that regional governments have been handling issues related to houses of worship following the 2006 PBM, one of which is providing temporary buildings for houses of worship. Ministry of Home Affairs also highlights 3 (three) main factors contributing to the ongoing problems in the establishment of houses of worship, namely: (a) culturalization or socialization; (b) occurrences of maladministration; and (c) lack of preparedness in fulfilling the requirements for houses of worship. However, this inventory is considered problematic because it simplifies the issues and assumes that the 2006 PBM is not problematic in substance and is merely a factor outside of regulation (Komnas HAM, 2020).

In an interview with Aang Witarsa Rofik, Director of Economic, Social, and Cultural Resilience, Directorate General of Political and General Administration of the Ministry of Home Affairs it was stated that the Ministry has been fulfilling

its duties by assisting regional governments in implementing the 2006 PBM, thus there are no misinterpretations in the process of granting permits for houses of worship. Additionally, the FKUB is also considered to be functioning well, although there are still issues regarding operational support for the existence of FKUB itself. This is due to varying levels of regional capacity in allocating their budgets.

Furthermore, the findings of this research interview also criticize the failures of Ministry of Home Affairs and FKUB in addressing issues arising from the issuance of permits for the establishment of houses of worship. Apart from the unclear commitment of regional governments in facilitating FKUB, both in terms of human resources, funding, and office facilities, thus FKUB cannot function optimally, the polemic surrounding permits for houses of worship also highlights the issue of sectoral ego or silo mentality among ministries and institutions, despite the Ministry's advocacy efforts.

The government and FKUB are also considered to have poor communication. This also affects the effectiveness of implementing the 2006 PBM, including addressing conflicts related to the establishment of houses of worship. The facilitation provided by the Ministry of Religious Affairs is also considered temporary. Regional government officials (Regents/Mayors) are also seen to be more focused on the administrative interpretation of the 2006 PBM. Furthermore, bureaucratic obstacles hinder the issuance of permits for the establishment of houses of worship, as well as extortion and lip service for electoral purposes, disregarding human rights-based policies and rights fulfillment. In this regard, the perception of politicians, bureaucrats, and law enforcement officers is also considered to have sidelined human rights and deepened the majority-minority dichotomy in society.

These issues are further exacerbated by a government with intolerant human resources, lacking solutions for resolving conflicts related to the establishment of houses of worship, and policymakers' indifferent attitudes, considering the issue of permits for houses of worship to be exaggerated. The government is also deemed to lack the political will and power to defend minorities. This problem also leads policymakers related to the 2006 PBM to be perceived as not understanding the context of religious and native faith life.

Taking one study in South Kalimantan as an example, difficulties in building houses of worship are caused by the non-compliance of the parties involved, the lack of dialogue and communication among religious adherents, and the politicization of religion (Dahlan and Aslamiyah, 2022). This finding indicates that many cases related to the difficulty of building houses of worship are not only caused by regulations alone but also involve other polemics.

Similar sentiments were expressed, for instance, by the Deputy Chairperson of the High Council of the Indonesian Confucianism Religion (Majelis Tinggi Agama Konghuchu Indonesia/MATAKIN), Chandra Setiawan, in an interview (14/12/2023). Chandra recounted that the conflict over the Tri Dharma Place of Worship (TITD) in Tuban occurred due to internal issues between Confucian and Buddhist adherents who used the place of worship. This phenomenon also occurs in cases of parking lot management, such as extortion (*pungli*) at the Istiqlal Mosque in Jakarta (MNC Portal, 2023). Zainal Bagir, a lecturer at CRCS UGM, confirmed this during an interview (14/12/2023). He also affirmed that conflicts over houses of worship often occur not only due to intolerance among religious and belief communities but also because of intra-religious issues and lack of good communication with the surrounding environment.

Based on the presentation above, it can be concluded that the 2006 PBM requires attention from all parties, especially regarding revisions related to the rules for establishing houses of worship. This is important because these rules hinder the freedom to establish houses of worship, despite being guaranteed in the 1945 Constitution and should be implemented at all levels of government in Indonesia. Therefore, it is only fitting that the rules of the 2006 PBM be revised, including the regulations regarding permits for the establishment of houses of worship.

Furthermore, as mentioned above, there is currently a discussion on the formation of a Religious Harmony Presidential Decree Draft which will replace the 2006 PBM. As of the date this report was completed (20/2/2024), no complete text of the aforementioned Presidential Decree Draft accessible to the public has been found. However, based on comments on the Religious Harmony Presidential Decree Draft presented by PUSAD Paramadina and the results of interviews with representatives from KSP, several notes on the text can be inferred. Among them are concerns about centralization with the establishment of a National

FKUB which may provide additional steps in bureaucracy; support for the role of FKUB as consultants and actors in the resolution of disputes among religious and belief communities rather than providing recommendations for applications for the establishment of houses of worship; maintaining the requirement of 90/60 IDs while not becoming a single requirement, as well as the inclusion of elements of belief in the regulation (PUSAD, 2020; Rumadi Ahmad, Chief Expert of the Deputy V Presidential Staff Office, interview on 24/1/2024).

The urgency to review the provisions in the 2006 PBM in this study primarily focuses on the polemics of permits for the establishment of houses of worship and the resolution of conflicts related to the establishment of houses of worship. The following section will further elaborate on the challenges and obstacles to the implementation of the 2006 PBM related to the rules for establishing houses of worship, which drive the importance of revising discriminatory provisions in the 2006 PBM and ensuring the existence of policies that facilitate and protect diversity, including ensuring freedom in establishing houses of worship in Indonesia. Additionally, this study is expected to provide input for the Religious Harmony Presidential Decree Draft, which, as of the writing of this policy paper, is still undergoing postponed deliberation processes.

Challenges and Obstacles in the Implementation of the 2006 PBM Regarding Regulations on the Establishment of Houses of Worship

This section will discuss the policy content and implementation context of the 2006 PBM regulations regarding the requirements for the establishment of houses of worship. This study notes that the policy on the establishment of houses of worship as regulated in the 2006 PBM does not yet reflect the content and context in the policy framework proposed by Grindle.

The success of implementing a public policy can be measured by the process of achieving final outcomes, whether the intended goals are achieved or not. Grindle poses two fundamental questions regarding policy implementation: the effect of public policy content on its implementation, and secondly, the context, namely the political and administrative contexts influencing policy implementation (Wijayanti and Jannah, 2023). The following provides further explanation of the policy content and context from Grindle regarding the 2006 PBM, as well as the

interrelationship between these variables, particularly in the regulation of the establishment of houses of worship.

Reflecting on Grindle's theory of policy content and context, here are some key findings from this research. **Regarding policy content, this study notes that *permits for the establishment of houses of worship are also subject to various conflicts of interest.*** For example, political competition for electoral victory; political pressure to reciprocate political support provided; solidarity among fellow adherents of religions and concerns about the mission of converting and altering the beliefs of congregants; the use of the authority of regional heads to determine recommendations for permits for the establishment of houses of worship (the personal preferences of regional heads or personal closeness of regional heads with FKUB), as well as a tendency to refer to technical provisions 90/60 IDs as the sole requirement for the establishment of houses of worship in the name of majority domination and pressure from certain groups (Ali-Fauzi, 2019; Azhari, 2014; Nugroho, 2020; PUSAD, 2020).

Referring to Grindle's policy evaluation concept, particularly in the aspect of policy content and the variables of interests affected by this 2006 PBM. Policies involving multiple conflicting interests are more difficult to implement compared to those involving fewer interests. Existing cases occur due to issues with the requirements for the establishment of houses of worship which are central to the 2006 PBM. Article 14 paragraph (2) letter a states that for the establishment of houses of worship, there must be a list of names and ID cards of at least 90 users of the place of worship endorsed by regional government officials according to the regional boundary limits.

These requirements have created a segregated and intolerant society, as well as rigid policy references regarding permits for the establishment of houses of worship. In addition to being discriminatory and non-inclusive, in practice, the implementation of the 2006 PBM by policymakers has also disregarded the context of diversity in religious and belief practices, the fulfillment of rights, and the reality of majority and minority groups, as a result of regulatory arrangements that emphasize administrative aspects and majority sentiments, sacrificing the importance of fulfilling rights to ensure the right to freedom of religion and belief.

The multitude of interests in implementing the policy on houses of worship as regulated in the 2006 PBM indicates the complexity of implementing this policy. Based on the explanations above, the interests in implementing the 2006 PBM come from regional heads, religious leaders, among adherents of religions. This has led to various complex issues related to the establishment of houses of worship.

Furthermore, regarding Article 14 paragraph (2) letter b which requires the support of at least 60 local residents endorsed by the Village Head/Village Chief, this administrative requirement often leads to conflicts if not met. Moreover, if this administrative requirement is fulfilled, there is often intimidation towards regional governments to revoke such decisions. Thus, regarding the variable of interests affected by the policy, especially the establishment requirements in this 2006 PBM, these provisions are clearly difficult to implement for minority religious groups.

These provisions also demonstrate the polemic of permits for the establishment of houses of worship due to the emphasis on administrative factors and the majority-minority dichotomy, where multi-stakeholder inclusion and participation in the policy process, including conflict resolution, are sidelined, and the government, which is obliged to play a role, also interprets the 2006 PBM according to its own interests, thus appearing intolerant, unresponsive, biased, and unaware of the concept and reality of religious and belief life. This also leads to the vulnerability of conflicts and the difficulty of achieving harmony among religious and belief communities.

Moreover, the requirements in the 2006 PBM also indicate the dominance of majority groups' interests in determining policies regarding the establishment of houses of worship in Indonesia. In practice, this is prone to sacrificing access and needs of minority groups, including in establishing houses of worship with requirements that are also vulnerable to manipulation by various stakeholders and politicized by intolerant groups.

From the variable of *benefits derived from the 2006 PBM*, this study found that the benefits *are only formality*, namely meeting the administrative requirements for establishment. The 2006 PBM is overly focused on regulating administrative requirements for the establishment of houses of worship and does not demonstrate an approach to fulfilling the right to freedom of religion and belief. Cases related

to permits for the establishment of houses of worship that continue to occur until early 2024, when this policy paper was written, also indicate a tendency to refer to administrative requirements in rejecting the establishment of houses of worship. This renders the 2006 PBM a hindrance rather than a facilitator of the right to freedom of religion and belief and makes religious and belief harmony vulnerable. This issue is further exacerbated by challenges related to conflicts of interest as mentioned earlier, and the weak understanding and awareness of legal, human rights, equality, freedom, harmony, and diversity perspectives, as well as tolerance in terms of permits for the establishment of houses of worship.

Regarding the desired degree of change, this study notes *the insignificant degree of change desired* from the 2006 PBM policy. The requirements in Article 14 paragraph 2 (a) and (b) do not bring about significant changes to the conditions of minority religious adherents intending to establish houses of worship. These rules, in practice, are similar to those in Article 4 of the 1969 SKB regarding the rules for the establishment of houses of worship, although in the 2006 PBM, these requirements are made more specific by specifying a minimum of 90 users of the place of worship and the support of at least 60 local residents.

Concerning this, the formal nature of the benefits of the change from the 1969 SKB to the 2006 PBM implies that, consequently, the desired changes are also not significant. Summarizing the results of literature studies and interviews, the administrative regulation of establishing houses of worship is considered insufficient to bring about change to address the conflicts in building houses of worship that still occur in Indonesia. There is a need for a paradigm shift from society, authorities, and the government, as well as the restructuring and reconstruction of the roles of FKUB institutions. In other words, this research notes that the desired degree of change from the 2006 PBM is still relatively low because it focuses more on prioritizing administrative requirements and other unilateral interests, rather than efforts to facilitate the establishment of houses of worship and achieve harmony among religious and native faith believers.

As previously outlined, the requirements for permits to establish houses of worship in the 2006 PBM are considered discriminatory. The provisions regarding the requirements for establishing houses of worship in Article 14 paragraphs (2) (a) and (b) of the 2006 PBM, which are essentially administrative, tend to

be discriminatory and lead to conflicts in practice. The requirements specified in this article clearly disregard context, including the number of adherents of religions and beliefs; the need for houses of worship regardless of the number of adherents of religions and native faith, and disregard the role of the government, which should facilitate harmony among religious and belief communities, including in the establishment of houses of worship. From document studies and interviews in this research, it can be seen that these administrative requirements often remain the primary reference for issuing permits for the establishment of houses of worship. For example, this occurs in cases such as the Islamic Center Padang Foundation (2024); Cimacan Vihara (2023), Mawar Sharon Church in North Sumatra (2023), and others (see Table 4).

The research findings related to the next variable note *the lack of synergy in the position of policymakers*. Based on this study, the policymakers or the creators of the 2006 PBM, namely the Ministry of Religious Affairs and the Ministry of Home Affairs, are appropriate because religion is a central government affair. Based on 2004 Regional Government Law, Article 10 paragraph (3) states that religious affairs are central government affairs that can also be assigned to regional governments. The arrangement of affairs in 2004 Regional Government Law is reflected in the 2006 PBM, where in its implementation, regional governments are responsible for the regulation of houses of worship. In its amendment in Article 10 paragraph (1) of Law Number 23 of 2014 on Regional Government (2014 Regional Government Law), religious affairs again became the absolute affairs of the central government. However, based on Article 25 paragraph (1), the fostering of harmony among religious and belief communities also becomes a general government affair carried out by governors and regents/mayors. Therefore, based on the two regimes of the 2004 and 2014 Regional Government Law, the position of the Ministry of Religious Affairs and the Ministry of Home Affairs, which are part of the central government, is appropriate as policymakers.

However, there are still issues in the implementation of the 2006 PBM carried out by regional governments. Nevertheless, the central government still has the authority to assist regional governments. As explained in the previous section, religion is a matter of central government according to the Regional Government Law. Moreover, as a country that adheres to a decentralized system, the involvement of regions in implementing this policy at the regional level is crucial.

Therefore, the 2006 PBM was formulated at the ministry level by the Ministry of Religious Affairs as the authority for religious affairs at the central level and the Ministry of Home Affairs, which plays a role in connecting the central and regional governments and ensuring the effectiveness of decentralization and regional autonomy.

However, the existing policy does not yet encompass the issues of adherents who fall under the Ministry of Education, Culture, Research, and Technology (Engkus Ruswana, Central Consultative Council of the Indonesian Assembly of Faiths, interview on 22/12/2023). Regarding the non-involvement of adherents or native faith believers in the 2006 PBM, this is a deeper issue related to the recognition of beliefs as religions, not cultures. Historically, the classification of beliefs as cultures and not equal to religions emerged since 1978, regulated in the State Policy Blueprint or long-term policy planning made in 1978, 1983, and 1988 (Jufri and Mukhlis, 2019). Currently, adherents have different rights from adherents of religions in general, such as houses of worship facilitated differently because they are not under the purview of the Ministry of Religious Affairs and the 2006 PBM.

Therefore, regarding Grindle's point on the position of policy-making, involving the Ministry of Religious Affairs and the Ministry of Home Affairs is appropriate, although it does not yet accommodate adherents under the Ministry of Education, Culture, Research, and Technology. This results in the incompleteness and lack of comprehensiveness of the policy-makers of the 2006 PBM, including with the context of building houses of worship and resolving conflicts to accommodate the interests of religious and belief communities.

The next variable is program implementation. This study notes *the suboptimal role and performance of the government in facilitating permits for the establishment of houses of worship in Indonesia*. This is also indicated by the continued vulnerability of cases related to the establishment of houses of worship monitored by TII from 2023 to January 2024. Concerning this, the PUSAD Paramadina research (2020) also found the absence of clear mechanisms to ensure government accountability in efforts to maintain harmony and empower FKUB.

The low performance of the government is partly attributed to differing interpretations and implementations of the 2006 PBM across regions. In

connection with this, the tasks and obligations of provincial and regency/city governments are overly general. In Article 5 and 6 of the 2006 PBM, it is stated that the tasks and obligations of governors and regents/mayors are to:

- a. Maintain public order and security, including facilitating the realization of harmony among religious and belief communities in the province;
- b. Coordinate the activities of vertical agencies in the province in maintaining harmony among religious and belief communities;
- c. Foster harmony, mutual understanding, respect, and trust among religious and belief communities; and
- d. Foster and coordinate regents/deputy regents and mayors/deputy mayors in the implementation of regional governance in the field of public order and security in religious and belief life (specifically for regents/mayors) by issuing permits for houses of worship.

Meanwhile, FKUB has more concrete tasks based on Article 9 and 10 of the 2006 PBM, namely:

- a. Conduct dialogue with religious leaders and community figures;
- b. Accommodate the aspirations of religious organizations and community aspirations;
- c. Channel the aspirations of religious organizations and the community in the form of recommendations as inputs for regents'/mayors' policies;
- d. Conduct socialization of laws and policies in the religious field related to harmony among religious and belief communities, and community empowerment; and
- e. (specifically for regents/mayors) provide written recommendations upon requests for the establishment of houses of worship.

From the division of tasks and obligations between regional governments and FKUB, as regulated in the 2006 PBM, it can be seen that FKUB's tasks are more specific than those of regional governments. From the wording of Article 9 and 10 of the 2006 PBM, the tasks of regional governments in points a and c use language that is not concrete, namely "maintaining public order and security..." and "fostering harmony..." There are no indicators or actions that can be clearly described as such, making them highly open to interpretation. On the other hand, FKUB has a more concrete description of its tasks, namely "conducting

dialogue...”, “accommodating aspirations...”, “channeling aspirations...”, “conducting socialization...”, and “providing recommendations...”

Meanwhile, the tasks and obligations of governors and regents/mayors are indeed broad, but the narrative used in the provisions of the 2006 PBM tends to be abstract and does not impose concrete legal obligations. The 2006 PBM, which is a *lex specialis* of the Regional Government Law, should provide more specific provisions in the realm of regulating the establishment of houses of worship. It is only appropriate for the 2006 PBM, as one of the implementing regulations, to elaborate further on the content of the Regional Government Law, rather than containing similar content.

The lack of specificity in regulating the tasks and obligations of regional governments in the 2006 PBM has led to differences in interpretation by regional governments in fulfilling their obligations in some cases. This also indicates challenges in the aspect of policy content, which refers to the variables of position and program implementation resources, which are also influenced by the dynamics of interests affecting policy implementation, the resources used, and the degree of change and types of benefits expected from the implementation of the 2006 PBM.

For instance, this can be observed in the varied implementation of the 2006 PBM by regional governments, which has been prone to exacerbating conflicts in permits for the establishment of houses of worship, as found in related research. For example, permits may be delayed or even revoked. The issuance of permits for houses of worship whose adherents are considered minorities often succumbs to the pressure of the majority and electoral interests, causing regional governments to fail to facilitate the establishment of houses of worship according to the mandate of the 2006 PBM and Human Rights Law, as well as their role in addressing social conflicts within their jurisdiction.

Different implementations of the 2006 PBM also occur institutionally, where FKUB, which should be formed up to the regency/city level, is established only up to the sub-district level in some areas (Halili Hasan, Executive Director of Setara Institute, interview on 2/1/2024; Indraza Marzuki Rais, Member of the Leadership of the Ombudsman of the Republic of Indonesia, interview on 18/1/2024). The presence of FKUB at the sub-district level needs to be

scrutinized regarding its purpose and effectiveness, as it may hinder the process of granting permits for houses of worship.

Furthermore, a study by PUSAD Paramadina (2020) mentions that FKUB distribution in Indonesia still leaves out 3 provinces (Riau Islands, West Sumatra, and West Papua) that have yet to establish FKUB. However, the establishment of FKUB has been mandated in Article 5 of the 2006 PBM to be formed at the provincial and regency/city levels. The inconsistency in the presence of FKUB in several areas and the lack of sanctions against regional governments that have not facilitated the establishment of FKUB are factors contributing to the suboptimal implementation of the 2006 PBM in those regions.

Moreover, this study also notes issues related to the low level of expertise and capability among those responsible for policymaking. This is evidenced by previous research findings, which noted the lack of understanding and implementation of rights-based approaches by police officers, military personnel, regional governments, and FKUB members when conflicts arise over the construction of houses of worship. This is further supported by a suggestion from one of the study's informants to enhance the capabilities of FKUB in dispute resolution (Hasbullah, Chairperson of the FKUB of Bogor City, in a discussion by The Indonesian Forum (TIF) series 103, themed "Evaluation of Joint Regulations of the Minister of Religious Affairs and the Minister of Home Affairs Numbers 9 and 8 of 2006 Ahead of the 2024 Political Year", 21/12/2023).

On the other hand, in reality, many stakeholders are involved amid cases related to the polemics of permits for the construction of houses of worship whose positions are not clearly regulated in the 2006 PBM. Regarding the stakeholders, the roles of each actor in the construction permits for houses of worship as regulated in the 2006 PBM, Human Rights Law, Regional Government Law and its amendments, Law Number 39 of 2008 concerning State Ministries (State Ministries Law), and Law Number 2 of 2002 concerning the Indonesian National Police and its amendments (Police Law) are outlined in the following table.

Table 5. Involvement of Each Party in the Construction of Houses of Worship

Stage	Houses of Worship Development Committee	FKUB	Ministry of Religious Affairs	Ministry of Home Affairs	Regency/ City Government	Sub-district Head (Camat) and Village Head (Lurah)	National Human Rights Commission (Komnas HAM)	Police
Application for permit	Dark red							
Policy formation		Light red	Dark red	Dark red	Dark red	Light red	Dark red	Light red
Permit issuer/recommender		Dark red			Dark red	Dark red		
Facilitator of community aspirations	Light red	Dark red	Light red	Light red	Dark red	Dark red	Dark red	Light red
Involved party in dispute resolution meetings		Dark red			Dark red	Dark red	Dark red	Dark red
Education/awareness	Light red	Dark red	Dark red	Dark red	Dark red	Dark red	Dark red	Light red
Monitoring			Dark red	Dark red	Dark red	Dark red	Dark red	Dark red
Providing input to the government	Light red	Dark red	Light red	Light red	Dark red	Light red	Dark red	Light red
Maintaining public order and harmony		Dark red			Dark red	Dark red		Dark red
Receiving reports/aspirations	Light red	Dark red	Light red	Light red	Dark red	Dark red	Dark red	Light red

Note: Dark red columns indicate involvement in the process according to applicable regulations.

Source: Compiled by summarizing the PBM 9 and 8 of 2006, Law Number 39 of 1999 concerning Human Rights, Law Number 23 of 2014 concerning Regional Government and its amendments, Law Number 39 of 2008 concerning State Ministries, Law Number 2 of 2002 concerning the Indonesian National Police and its amendments, 2024.

Based on the table above, which refers to the provisions in the legislation, it can be observed that the FKUB and regional governments play the most significant roles in granting permits for the construction of houses of worship. The FKUB provides

opinions to be considered in policy-making, offers recommendations as one of the conditions for the construction of houses of worship, channels aspirations, and participates in consultations for dispute resolution. Additionally, the FKUB plays a role in providing education or socialization related to religious and belief harmony policies, as well as maintaining harmony.

Examining the Regional Government Law, regional governments, represented by regional heads, essentially have a role in leading the implementation of regional governance affairs, maintaining public order and tranquility, drafting regional regulations, representing their region in and out of court, and other duties as stipulated by the legislation. However, in carrying out their duties, regional heads are authorized to take certain actions in urgent situations deemed necessary by the region and/or the community, thus allowing them more flexibility in addressing conflicts.

In the process of consultations for dispute resolution, as seen in Table 5, Komnas HAM also plays a role. However, the dispute resolution conducted by Komnas HAM differs from the mechanisms regulated in the 2006 PBM. Considering that obstructing the establishment of houses of worship is a violation of human rights, specifically the freedom of worship, Komnas HAM also has mechanisms for dispute resolution based on the Human Rights Law. Dispute resolution by Komnas HAM can be conducted through mediation, further regulated in SNP No. 2. However, the mediation conducted by Komnas HAM is a separate avenue from that regulated in the 2006 PBM involving FKUB and regional governments. Thus, there is more than one pathway for dispute resolution, based on the mechanisms regulated in the 2006 PBM and SNP No. 2.

Furthermore, based on Table 5 above, maintaining order is carried out by community organizations, regency/city governments, and sub-district/village governments. Community aspirations are conveyed by community organizations, FKUB, and Komnas HAM. However, it is not indicated that regency/city or sub-district/village governments can receive aspirations. Additionally, mechanisms for reporting issues related to permits for the construction of houses of worship and resolving disputes resulting from such issues are not found. However, concerning the *lex specialis* category of the 2006 PBM, the role and function of regional governments should be specifically mentioned as a basis for optimizing their role in fostering harmony among communities.

The consequences of the lack of specificity in regulating the functions and roles of parties in the 2006 PBM can be seen, for example, in the case of Rajeg Village, Tangerang Regency, where the mediation process involved the Chairperson of the Citizens Association (Rukun Warga/RW), the Subdistrict Head (Camat), and also military personnel. These actors are not explicitly mentioned regarding their roles and functions in the 2006 PBM. A similar situation occurred at higher levels in the Ministry of Religious Affairs and the Ministry of Home Affairs (bbc.com, 8/12/2017). This event was evident with the circulation of Circular Letter of RW 06 of Rajeg Village regarding Discriminatory Regulations Against Non-Muslim Activities. As reported by BBC News Indonesia (8/12/2017), instead of acting as mediators, the police were perceived by some experts to be fearful of pressure from certain groups, thus tending to be powerless in taking a stance. Although eventually resolved, the resolution process involved other parties, including the military, regional government officials, head of RT and RW, and representatives of the FKUB.

On the other hand, this research also notes that *the approach of the police and military exacerbates conflicts surrounding the establishment of houses of worship*. This was also conveyed by several interviewees in this study, such as Muhammad Isnur, Chairperson of the Indonesian Legal Aid Foundation (Yayasan Lembaga Bantuan Hukum Indonesia/YLBHI) (13/12/2023), and Gomar Gultom, Chairperson of the Communion of Churches in Indonesia (Persekutuan Gereja-Gereja Indonesia/PGI) (12/1/2024). Both sources mentioned that the presence of police and military often exacerbates issues by favoring the majority and disregarding minority unrest. This approach does not reflect the fulfillment of the right to freedom of religion and belief, as well as the provision of good public services.

According to the 2006 PBM, the participation of the police and military is not mentioned. However, in practice, the police and military play a role in conflicts related to the construction of houses of worship, as explained in the above case example. Nevertheless, Ihsan Ali-Fauzi (2019) mentioned that the police are tasked with protecting the rights of minority religious and belief groups that are violated. One example is the police's assurance to carry out legal proceedings following the destruction of the Pentecostal Missionary Church in Batam, Riau Islands in August 2023 (kompas.id, 12/8/2023).

Quoting from an interview with Dr. Wawan Djunaedi M.A., Acting Head of the Directorate General of Guidance for Beliefs and Worship of the Ministry of Religious Affairs (12/1/2024), the government has been very effective in facilitating religious communities to worship fairly. He acknowledged that there are indeed some technical and non-technical obstacles in the field, such as requirements for 90 congregation members and 60 local resident approvals. However, this is not a problem considering that the state has provided solutions, one of which is the obligation for regional governments to facilitate if these requirements are not met.

Furthermore, when asked about their response if regional governments fail to provide such facilities, which is also a common occurrence, Wawan stated that the ministry could only respond that they have no authority because regional governments fall under the jurisdiction of the Ministry of Home Affairs. On the other hand, they also acknowledged the possibility of informal “warnings.” However, given the bureaucratic ethics in governance, this is not easy to execute.

Next, the aspect of resources, where *the resources utilized in this policy are still limited*. Summarizing reports from the PUSAD Paramadina and interview notes with the research informants, it was found that there are still 14 districts in 4 provinces that have not formed FKUB and lack accommodations such as office space for FKUB (PUSAD, 2020). PUSAD Paramadina also recommends improvements to regional regulations and additional rules for managing harmony that cannot be addressed by the 2006 PBM. For example, by providing harmony account codes to serve as the basis for FKUB to obtain budget allocations.

Regarding budget issues, as stated by Hasbullah, Chairperson of the FKUB Kota Bogor (interview, 7/12/2023), the optimization of FKUB’s budget requires political support from regional leaders. This support is reflected in the change of nomenclature in the Regional Medium-Term Development Plan Regulation of the City of Bogor 2019-2024, thus affecting budgetary support for the FKUB Kota Bogor.

On the other hand, political dynamics, such as changes in regional leadership, should also be considered as one of the factors influencing budgetary support for the FKUB. When there is a change in regional leadership, there is a possibility of changes in budgetary support for the FKUB. This occurs because each elected

regional leader through Regional Head Elections has different perspectives and commitments regarding tolerance, harmony, and promoting the right to establish houses of worship. Thus, this study notes that the suboptimal role of the FKUB is also influenced by support from regional governments and the political context in which they operate.

Improving conflict resolution capabilities and maintaining the neutrality of the FKUB, support from the government and its agencies, as well as cooperation with civil society, are also essential to optimize the role of the FKUB, beyond just providing recommendations for the establishment of houses of worship (Ali-Fauzi, 2019). The government also needs to enhance the capacity and accountability of the FKUB. For example, by creating guidelines and provisions related to member recruitment to ensure openness, diversity, and equality in terms of religion/belief. Support for resources and organizational management is also needed for the FKUB to be more effective in fulfilling its functions. For instance, by supporting the management of FKUB organizations by encouraging the involvement of new, younger cadres in the second and third layers of FKUB management for tasks with high mobility, including attending training sessions (PUSAD Paramadina, 2020).

In the case of Bogor City, the recruitment of FKUB members is preceded by an assessment by the Regional Government and followed by orientation activities and capacity building for FKUB members to have perspectives on tolerance and human rights fulfillment (interview with Hasbullah, 7/12/2023). Through this process, the FKUB is expected to carry out its role with adequate human resources support and sufficient quality, especially in the process of granting permits for the establishment of houses of worship.

Next, the findings based on *Grindle's policy context analysis* will be discussed, concerning the power, interests, and strategies of the actors involved. The results of this research note that *the composition of the FKUB is inappropriate* because its regulations and membership are based on the majority religion regarding the comparison of the number of adherents. Even when placed in a proportional context, it must be acknowledged that FKUB recommendations regarding permits for the establishment of houses of worship are also influenced by dominance, pressure, and the interests of the majority. The composition of the FKUB, consisting of civil society organizations (CSOs), *is also biased and*

prone to politicization (Mahaarum Kusuma Pertiwi, Lecturer of Constitutional Law, Faculty of Law, Universitas Gadjah Mada, interview on 1/12/2023). This condition also results in *the lack of quality resources, capabilities, and knowledge among them regarding the importance of tolerance*.

This is also confirmed by Father Benny Susetyo (in an interview on 4/12/2023), one of the representatives of the Catholic Church, who stated that one of the problems in implementing the 2006 PBM is *the non-functional existence of the FKUB*. The suboptimal functioning of the FKUB often occurs when conflicts arise and escalate. Father Benny also mentioned that this often happens because the members representing the FKUB are often selected randomly. One finding from The Indonesian Institute's research (2015) also notes that the establishment of the FKUB is considered merely a formality. This is because regional leaders (in this case, deputy regional heads) as advisors in the FKUB do not function properly. Even if they do function, it is more to attract crowds for political purposes. Furthermore, the unclear work programs and activities of the FKUB, which mostly involve visits or studies abroad and to other regions, also do not address the problems existing in the region itself.

Meanwhile, *regarding the implementation of the 2006 PMB, the central government (in this case, the Ministry of Religious Affairs and the Ministry of Home Affairs) plays a role in accompanying regional governments* through the socialization and assistance in implementing the 2006 PBM and providing support to FKUB, as both ministries have structures down to the regional level. For example, the Ministry of Religious Affairs has Regional Offices (Kantor Wilayah/Kanwil) at the provincial and regency/city levels, while the Ministry of Home Affairs has the National Unity and Politics Agency (Badan Kesatuan Bangsa dan Politik/Bakesbangpol), which also exists at the provincial and regency/city levels.

However, this research found that there are *still differences in the interpretation of the 2006 PBM and a lack of sufficient synergy between the two ministries*. For instance, the Ministry of Religious Affairs considers certain aspects related to the implementation of the 2006 PBM, such as the mechanism in Article 14 paragraph (3) which obliges regional governments to facilitate the availability of locations for the construction of houses of worship, fall under the authority of the Ministry of Home Affairs (interview with Wawan Djunaedi, Acting Head of the Directorate General of Guidance for Beliefs and Worship, 12/1/2024).

The challenges of implementing the 2006 PBM are not only encountered at the central government level but also the regional level.

In the context of implementing the 2006 PBM, the roles of the FKUB and regional governments are central. This is at least explained in the general provisions chapter of the 2006 PBM, where FKUB is defined as a forum established to build, maintain, and empower religious communities for harmony and welfare. Additionally, regional governments in this context are also defined as institutions responsible for issuing IMB.

In practice, *FKUB and regional governments often do not perform as expected*. Findings from the research report by PUSAD Paramadina (2020) indicate *differences in the character of FKUB in each region*. According to the report, FKUB in heterogeneous regions tend to have a higher acceptance rate of recommendations compared to FKUB in homogeneous regions. According to the Grindle concept, this indicates that the characteristics of institutions and rulers also play a significant role in policy implementation.

Implementation of the 2006 PBM is often hampered due to *the weak role of regional heads and FKUB*. Based on the findings of the TII study (2015), the Komnas HAM (2020), and the findings of monitoring online reporting of cases that occurred from January 2023 to January 2024, regional heads were unable to implement the 2006 PBM consistently and tended to be discriminatory against religious minority adherents by taking cover behind the normative rules in Article 14 paragraph (2) letters a and b. Apart from that, in several cases, it can be seen when regional heads are also faced with mass pressure regarding conflicts over the establishment of houses of worship.

In the case of the construction of a house of worship in Cilegon, for example, there was a situation where the state, in this case through the City Government, issued a Decree of the Head of the Regional Head of Level II Serang Number 189/Huk/SK/1975 dated 20 March 1975 on the Cease of Churches. or a place of worship for Christian communities (CNN Indonesia, 2022). Meanwhile, the Regent of Bekasi, Dani Ramadan, in the case of granting permission for the building of the Mother Teresa Church for Cikarang Parish in the Lippo Cikarang area, said that leaders must be brave in making decisions. This was conveyed in an interview with Kompas (8/6/2023) in response to public pressure who

rejected the construction of the house of worship. According to Dani Ramdan, courage is needed for a regional leader to provide basic rights to his citizens, including the right to worship.

On the other hand, *FKUB has not been able to optimally carry out its role*. Based on research by PUSAD Paramadina (2020), FKUB itself has not been able to carry out its role in maintaining harmony among religious communities and beliefs. *This is because the existence of FKUB still receives very little attention from the regional government*. In fact, FKUB is one of the potential actors in playing a strategic role in resolving problems of religious conflict, namely FKUB (kemenag.go.id, 7/2/2020). In this case, regional governments, which should also play an important role in implementing the 2006 PBM, including in supporting FKUB, are still not optimal. This also cannot be separated from the problem of differences in *interpretation and explanation of regional government obligations which are not concrete in the 2006 PBM*. The 2006 PBM which should be the *lex specialis* in regulating the establishment of houses of worship uses terminology with connotations that are too general for descriptions of assignments, which contributes to this problem.

The next aspect is interactions within institutions, as well as the characteristics of institutions and authorities. The findings of this research note that there is a problem in *the weak tolerance perspective of regional heads which is followed by pressure from community organizations*, which makes regional governments indecisive and intolerant. On the other hand, the FKUB organization is not running optimally, which also makes it difficult to obtain permits to build houses of worship.

Furthermore, this research also notes that *the communication factor between actors in the 2006 PBM is the main key to overcoming the problems of implementing the 2006 PBM*. Based on an interview with Hasbullah (7/12/2023), it is said that it is important for FKUB to communicate and equate perceptions with regional heads. For example, in the recruitment and budgeting process. Apart from that, good communication is also key when there is a deadlock in a case. Thus, communication and mediation carried out by the parties is important to find solutions to existing problems.

The FKUB experience in Bogor City can be a good example regarding interactions between actors in the implementation of the 2006 PBM. On the other hand, *there are still many communication and coordination problems that hinder the implementation of the 2006 PBM which occur in other areas, including in the dispute resolution process*. This is because the 2006 PBM does not explain the common thread of coordination between FKUB and regional government if a dispute occurs. It can be assumed that disputes mediated by the regency/city regional government are only disputes that are known or on the radar of the regional government, or through the FKUB. Thus, not all disputes can be helped by the regional government, where FKUB has no legal obligation to play a role in resolving disputes except in the form of dialogue.

The above conditions were also explained in an interview (14/12/2023) with Zainal Bagir, teaching staff at CRCS UGM. According to him, *although efforts to achieve conflict resolution have been made* (of course with various implementation records), *the conflict transformation process has still not been achieved*. This indicates that among the parties involved in the conflict, no one is willing to give in or make the changes necessary to end the conflict completely.

Next are aspects of compliance and responsiveness of implementers. This research notes that the *2006 PBM generally tends to be adhered to, especially regarding the requirements for establishing a place of worship, and is often used as a reference in cases that occur*. The provisions regarding permits for the establishment of houses of worship in the 2006 PBM, as seen in several examples of cases above, show that the implementers of the 2006 PBM, both regional governments and FKUB, are sufficient to comply with these provisions (aside from other related interests) and take them into account when granting permits for houses of worship. This is even done despite violations of the Human Rights Law due to discriminatory policies and limiting the right to worship as part of human rights.

However, based on the results of an interview (14/12/2023) with Zainal Bagir, lecturer at the CRCS UGM, *skills for managing conflict* related to conflict resolution mechanisms in the context of building houses of worship *are still often ignored*. According to him, policymakers are often still confused about what they should do if a conflict occurs. This causes them to often *lose under the pressure of the*

intolerant majority. In reality, policymakers do not hesitate to use the authorities' authority to enforce control.

Thus, from the variables of compliance and responsiveness of implementers in the context of policy implementation according to Grindle's theory, it can be concluded from the explanation above that in terms of *problem solving mechanisms related to permits to establish houses of worship, there are still challenges*. Problem solving mechanisms that are not clear and the roles and functions of the relevant stakeholders have not been specifically regulated also mean that implementing the 2006 PBM policy does not have good responsiveness, and shows non-compliance with their respective roles which should contribute to supporting tolerance and harmony among people of religion and belief, including facilitating the establishment of houses of worship. On the other hand, *regarding the requirements for houses of worship, it seems that policy implementers and related stakeholders are fairly compliant, and it depends on the practice and context of the existing case*, where there are good practices and there are also challenges if only these requirements are followed.

Apart from that, *the lack of public understanding regarding diversity and the meaning of religion and belief* has an impact on their behavioral patterns which tend to always want an exclusive place of worship. Ahmad Suaedy, Senior Researcher at the Wahid Foundation (interview on 12/23/2023), said that this kind of perspective gives rise to the *arrogance of the majority and their ambition to dominate religious minority adherents*. Thus, from a societal perspective, it can be said that society's view of religious life and belief is still problematic. In this case, what is important to do in responding to permits for the establishment of houses of worship is to take *a social and cultural approach at the beginning and followed by an institutional approach*. The next section will elaborate on the importance of encouraging changes to the regulations for establishing houses of worship.

Encouraging Amendment in Regulations for Establishing Houses of Worship

Based on the discussion above, it can be seen that in practice, the implementation of the 2006 PBM and other related regulations such as the Human Rights Law; Regional Government Law; Government Regulation on Job Creation;

State Ministries Law; and Police Law. The police, as well as the commitment of stakeholders directly related to the 2006 PBM, are still full of polemics and complexity. The issue of establishing houses of worship, which is guaranteed by the 1945 Constitution, in reality, has to deal with various dynamics in the context of policy implementation. *The cases that have arisen since the 2006 PBM was passed also show that problems arise not only from the administrative aspect* regarding the regulatory requirements for establishing a place of worship, such as approval by the regional head and FKUB, IMB, the number of congregations and the number of residents around the location of the place of worship who agree *but also normative legal problems*, related to the roles and interests of policy stakeholders involved in licensing the establishment of houses of worship in Indonesia.

As stated in the previous section, *this research notes several challenges and obstacles related to public administration in implementing the 2006 PBM*. For example, there is no binding decision to follow up on the issue of establishing houses of worship; There is still a lack of socialization of related regulations by regional governments, including at the sub-district and sub-district levels, and there is no clear reporting mechanism in regional governments, which also influences the process of resolving disputes related to the establishment of houses of worship. *This research also underlines the complexity of handling disputes related to the issue of establishing houses of worship*, especially related to the role of regional governments in handling social conflicts, as well as the coordination of central and regional governments to overcome problems related to the establishment of houses of worship, and the role of FKUB and other related stakeholders.

In reality, the relevant stakeholders who should be expected to be the parties who can mediate this problem, also contribute to the complexity of this problem. For example, FKUB and related regional governments. Azhari's (2014) study noted the minimal role of FKUB outside of the issue of houses of worship in Indonesia. This is caused by several things. *First*, there has been no strengthening of the capacity of FKUB members, especially in handling religious conflicts. The government only facilitated the formation of the FKUB and gave the impression that it paid little attention after the FKUB was formed.

Second, FKUB's budget is limited in carrying out its roles and functions optimally. The government's task to "facilitate" FKUB has not been clearly explained.

Although several FKUB receive quite large budget support from the regional government, this really depends on the discretion of the relevant regional head. *Third*, FKUB is often seen as an extension of the government *vis a vis* the community, so it tends to give the impression of being held hostage to government interests. *Fourth*, there is no uniform perspective in FKUB regarding human rights, the right to freedom of religion and belief, and the rights of minorities, especially minority religions and native faiths. This means that there are still many FKUB members who do not have a proper understanding and acceptance of the things guaranteed by the constitution in carrying out their roles (Azhari, 2014).

Apart from that, Azhari (2014) in his research also noted that the guarantee from the Regional Government (Regent/Mayor) was mandated by the 2006 PBM to facilitate the establishment of houses of worship following the provisions in Article 16 paragraph (2) and Article 13 paragraph (3) and Article 13 paragraph (2) of the 2006 PBM, in practice also experiences problems. ***Regional governments often do not consistently implement these regulations and seem to hinder the establishment of houses of worship.*** One of the reasons that is often put forward is residents' refusal so the regional government has not been able to issue permits. Even more ironic, there are regional governments that even freeze houses of worship that already have legal permits because the local residents reject them. For example, Depok Mayor Nur Mahmudi Ismail issued a decree revoking the HKBP Cinere Church's IMB, and Bogor Mayor Diani Budiarto opened the GKI Yasmin IMB.

Another example is when regional government regulations actually make it more difficult to build a place of worship. For example, Article 3 of the Aceh Gubernatorial Regulation requires a list of names and ID cards for users of houses of worship of at least 150 people, as well as support from at least 120 local residents. This clearly goes beyond the provisions outlined in the 2006 PBM. This regulation was finally questioned or became a new polemic in 2009 because it did not follow the Aceh Governance Law, regarding decisions that should be made by the Regional Government and the Aceh People's Representative Council (Dewan Perwakilan Rakyat Aceh/DPRA) in the form of Qanun and not a Governor's Regulation. The Aceh Ulama Consultative Council (Majelis Permusyawaratan Ulama/MPU) proposed to postpone the Governor's Regulation and speed up the Qanun (Nugroho, 2020).

Furthermore, related to regional autonomy and the division of affairs between the center and the regions, based on 2014 Regional Government Law as most recently amended in Government Regulation on Job Creation, in Article 10 it is stated that religious affairs are one of the absolute affairs of the central government, which according to his explanation consists of determining religious holidays that apply nationally, giving recognition to the existence of a religion, establishing policies in the administration of religious life, and so on. In administering religious affairs, the central government can carry it out itself or delegate authority to vertical agencies in the regions or governors as representatives of the central government based on the principle of deconcentration. Delegation of authority to vertical agencies is the system adopted in the context of building houses of worship in the 2006 PBM and creates its dynamics and complexity in its implementation as can be seen from the cases that occurred regarding permits to build houses of worship.

However, it should be noted that the right to freedom of religion and belief is protected in the 1945 Constitution, which is at a higher level than the 2006 PBM and the law. Thus, it is *important to ensure that the laws and regulations under the Constitution are interpreted in line with the human rights regulated in the 1945 Constitution. In this case, the 2006 PBM cannot accommodate human rights to worship following their respective religions and beliefs. without discrimination or other obstacles, including in terms of permits to establish houses of worship.*

This is also what makes the 2006 PBM face obstacles in practice. Permits from policymakers, especially regional governments, which should be the basis for the legality of houses of worship are also an obstacle in fulfilling the requirements for establishing a house of worship. In other words, looking at the cases that have occurred so far, it can be said that fulfilling the requirements for establishing a house of worship according to the 2006 PBM does not necessarily guarantee ease in establishing a house of worship. For example, due to pressure from community rejection (even those who are not local residents), problems understanding land ownership, land function, and the underlying IMB. In reality, several cases also show that the problems faced by houses of worship also occurred after the house of worship was established.

Not only the Komnas HAM findings above, the public's lack of knowledge regarding denominations is one of the obstacles to establishing a place of worship, especially regarding religions that have many denominations. Local residents who don't understand it think that if the houses of worship that are built are all from one particular religion, other houses of worship do not need to be built again in the same area. In reality, even though they come from the same religion, the houses of worship in question have different denominations from one to another (Muhammad Isnur, General Chairperson of the Indonesian Legal Aid Foundation, interview on 12/13/2023).

Conflicts due to permits for houses of worship still occur in several cases as previously explained. However, the conflict resolution mechanism in the 2006 PBM is not comprehensive with results that cannot be binding. In the 2006 PBM, the regent/mayor with the assistance of the regency/city religious department office also has a role in mediating deliberations if there is a dispute regarding the establishment of a place of worship, if deliberations between local residents cannot reach consensus. However, it is not explained how the reporting mechanism if a conflict occurs and the mechanism for implementing the results of deliberations can be carried out by all parties involved because there is no enforcement mechanism so it does not give rise to legal obligations.

Based on the findings and analysis above, *this research notes that the policy for establishing houses of worship regulated in the 2006 PBM still faces challenges, both related to aspects of policy content and the context of policy implementation.* The following section will discuss the recommendations proposed by TII based on the findings and discussions in this research. Recommendations are provided by considering aspects of policy content and the context of policy implementation, including mapping stakeholders related to the establishment of worship and the context of regional autonomy in Indonesia.

Recommendations

Based on the research findings and analysis presented above, TII provides several interrelated recommendations from aspects of content and policy context, as well as paying attention to applicable laws and regulations and by underlining the right to freedom of religion and belief, as follows:

- *Revise the regulations regarding permit requirements for the establishment of houses of worship which are discriminatory and have multiple interpretations.*

Based on points 158-159 SNP No. 2, the establishment and use of houses of worship need to be based on the real needs of their adherents, and the government is obliged to facilitate permits for the establishment and use of these houses of worship. This real need cannot be reduced only by quantitative arrangements but must ensure the fulfillment of needs substantively following the wishes of adherents of the teachings of the religion or belief. Facilitation means making concrete efforts to help realize the needs for houses of worship, not hindering the establishment or use of houses of worship for administrative reasons.

Regarding the 90/60 requirements, this research recommends that the Ministry of Religion and the Ministry of Home Affairs review these requirements. This requirement should not be used as the only and mandatory or main condition for obtaining a permit to build a place of worship. This is important to prevent discriminatory policies against minority religious groups, as well as protect and guarantee the fulfillment of the right to freedom of religion and belief. The implementation of policies regarding the regulation of houses of worship also needs to consider the context and data where the place of worship is located.

Meanwhile, regarding the role of FKUB in providing recommendations, as stated in the PKUB Presidential Decree, one of the plans is to remove recommendations from FKUB. Removing the recommendation from the FKUB in this case is highly recommended, because if summarized from the analysis of the problems that have been explained in several previous sections, the FKUB recommendation for permission to build a house of worship essentially makes things difficult for residents who want to build a house of worship and does not convey the spirit of fulfilling freedom of worship. The task of providing these recommendations is also quite difficult for FKUB, which also has limitations in carrying out its functions.

Furthermore, to prevent multiple interpretations, the provisions referring to the IMB permit regime need to be changed and replaced to suit the new PBG permit regime. It is also hoped that this will make it easier to facilitate permits for the establishment of houses of worship. As previously explained,

if the IMB permit provisions are not changed to PBG, it is feared that this will confuse the realm of policy administrators and the public in granting permits for houses of worship. Apart from that, not changing the IMB to PBG in the 2006 PBM could create a *legal vacuum* and uncertainty for PBG in the realm of establishing houses of worship which will be prone to abuse and misuse.

- ***Create a comprehensive dispute resolution mechanism with binding results.***

If the 2006 PBM is to be optimized, this policy can be modeled on the Komnas HAM complaint mechanism. Considering that regional governments and Komnas HAM both have roles, regional governments and Komnas HAM can synchronize the resolution of disputes regarding the establishment of houses of worship. Komnas HAM mediates and the regional government supervises the mediation.

For this reason, the legal instrument that amends the 2006 PBM, which is a legal product in the *lex specialis* category, needs to regulate more complete dispute resolution provisions starting from reporting, dispute resolution methods, and enforcement of agreement results. In this case, the government's awareness, commitment, and firmness in resolving disputes related to the establishment of houses of worship from a legal and human rights perspective are very important.

Therefore, the results of the deliberations can be adhered to and implemented, all parties involved need to carry out the deliberations following comprehensive procedures and mechanisms with compliance and respect for the deliberation process. The parties involved in this case are the House of Worship Construction Committee, FKUB, and the regional government. Based on the recommendations in the findings of this research, the deliberation process is carried out in accordance with formal procedures with parties who are willing to participate under the provisions, the results will be accepted by all parties involved with awareness of the consensus that has been reached.

- ***Increasing the human rights perspective for police and army officers in conflicts related to the establishment of houses of worship.***

This also refers to the Regulation of the Head of the National Police of the Republic of Indonesia Number 8 of 2009 on the Application of Human Rights Principles and Standards in the Implementation of the Duties of the National Police of the Republic of Indonesia. Education on human rights approaches in conflict resolution does not only need to be given to the actors in the 2006 PBM as above but also to other parties involved in the field, namely the police and army.

Therefore, this recommendation encourages the police and army to collaborate with Komnas HAM, as well as collaborate with civil society organizations that focus on law enforcement and human rights, to provide an improved human rights perspective for police and army personnels. The police and army must also be committed to law enforcement and must not take sides in carrying out their roles in dealing with conflicts related to houses of worship.

- ***Encourage interpretation and implementation of the 2006 PBM that is contextual and based on the fulfillment and protection of the right to freedom of religion and belief.***

Increase capacity to manage interests in an effort to resolve disputes. The parties involved, such as the regional government and FKUB, also need to be equipped with knowledge regarding the basics of conflict resolution through mediation, such as its nature, principles, objectives, and techniques, to be applied in deliberations or other forms of conflict management.

In addition, it is important to encourage efforts to increase the knowledge and capacity of policy implementers and other relevant stakeholders regarding diversity, inclusion, and participatory human rights-based approaches. To provide this knowledge, the Ministry of Religion through PKUB needs to take the initiative to carry out outreach and training for FKUB at the regency/city level of religious service offices in the regions.

FKUB also needs to carry out its role by involving various parties and implementing an inclusive approach, which also encourages affirmation for minority groups. For example, by involving groups of native faith

believers as implemented by FKUB of Kebumen, Cilacap, and Semarang. This approach is important for FKUB to accommodate various parties and interests related to permits to establish houses of worship, so that decisions can be made based on the perspective of fulfilling rights and not because of majority pressure.

The Ministry of Religion can also collaborate with civil society organizations, public policy research institutions, universities, legal aid institutions, or other related institutions, as well as encourage regional government initiatives to offer alternative solutions based on fulfilling human rights and based on good governance principles. To accommodate this, it is necessary to regulate clear duties and authorities among policymakers related to the 2006 PBM to clarify its interpretation and implementation to provide legal certainty. With legal certainty, it is hoped that freedom of worship can be properly protected following the mandate of the 1945 Constitution.

- ***Increasing public awareness of diversity, harmony, and tolerance of religion and belief.***

The government is working with NGOs or CSOs to increase cooperation to provide education on diversity and human rights, as well as inclusion for the general public through collaboration between the government and civil society, as well as through formal education curricula from an early age. For example, through youth camp activities, tolerance villages, creative content competitions on social media, and so on. Apart from that, the role of social media and educational content is important. This is important to encourage moderation and maturity in religion and belief, including through a sociocultural approach, which prioritizes equal dialogue and mutual respect for differences.

Related to this, social media and digital platforms can be used to spread messages of tolerance, harmony, and diversity through educational content, such as articles, videos, or online campaigns. Another thing that can be done is to organize training for community leaders, religious leaders, and educators to improve skills in facilitating inter-religious dialogue, resolving conflicts, and promoting tolerance in diversity.

- ***Optimizing FKUB performance with adequate resource support.***

The regional government collaborates with FKUB and is supported by CSOs to improve the recruitment mechanism for FKUB membership; increasing the capacity of FKUB members in terms of human rights, freedom, gender, inclusion, and diversity perspectives, as well as encouraging clear and adequate FKUB budget allocations from the central and regional levels to support the functions and roles of FKUB. There needs to be political will from regional governments, especially regional heads, to support FKUB and optimize its role in creating harmony among people of religion and belief, including in facilitating the establishment of houses of worship.

Apart from that, based on research findings, centralization of FKUB to the national FKUB can be done because religion is a matter for the central government. However, the recommendations put forward from the findings of this research reveal that regional-level officials are the ones who are closer and understand the dynamics of religion and belief and the conflicts that occur in their respective regions.

Furthermore, the presence of FKUB at the regional level is still needed considering the location of conflicts also occurring in the regions and the need to maintain harmony between people of religion and belief in the regions. Therefore, the drafting of the PKUB Presidential Decree needs to be studied further. It is hoped that this research can also be used as material for consideration.

- ***Carrying out multi-party collaboration to support the fulfillment of rights and protection of freedoms related to the establishment of houses of worship.***

The Ministry of Religion and the Ministry of Home Affairs need to form a cross-sector working group consisting of government representatives, religious leaders, communities, and civil society organizations to work together to facilitate the process of establishing houses of worship. For example, by involving Neighborhood Association (RT), Citizens Association (RW), Indonesian Legal Aid Foundation (YLBHI), Legal Aid Institute (LBH), and Komnas HAM. This working group will work to identify and resolve emerging problems, as well as develop concrete steps to support the protection of related rights. Inclusive and participatory multi-party collaboration is also important to socialize policies regarding the establishment of houses of worship to increase collective awareness

regarding tolerance and diversity, and the importance of protecting the right to freedom of religion and belief.

In addition, the Ministry of Religion and the Ministry of Home Affairs need to work together to provide legal assistance services for communities experiencing obstacles in the process of establishing a place of worship. This legal guidance aims to provide an understanding of constitutional rights related to freedom of religion and belief, as well as provide support in navigating the necessary administrative procedures.

In conclusion, TII hopes that the results of this research recommendation can become input for policymakers to encourage the structuring of regulations for the establishment of houses of worship based on fulfilling and guaranteeing the right to freedom of religion and belief, with a spirit of tolerance and respect for diversity. Apart from that, this research can also enrich the body of studies related to policies governing the establishment of houses of worship in Indonesia. Hopefully, this research can also become material for policy advocacy to encourage regulations on the establishment of houses of worship that can eliminate discrimination and guarantee the fulfillment of the rights to freedom of religion and belief for all Indonesian citizens.

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- Interview with Mahaarum Kusuma Pertiwi, Dosen Hukum Tata Negara, Universitas Gadjah Mada (Lecturer in Constitutional Law, Gadjah Mada University), 1 December 2023.
- Interview with Muhammad Isnur, *Ketua Umum, Yayasan Lembaga Bantuan Hukum Indonesia* (General Chairperson, Indonesian Legal Aid Foundation), 13 December 2023.
- Interview with Musdah Mulia, *Akademisi, UIN Syarif Hidayatullah* (Lecturer, UIN Syarif Hidayatullah), 29 December 2023.
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- Interview with Pramono Ubaid Tanthowi, *Wakil Ketua Bidang Internal Komisi Nasional Hak Asasi Manusia Republik Indonesia* (Vice Chairperson for Internal Department of National Human Rights Commission of Republic of Indonesia), 21 January 2024.
- Interview with Romo Benny Susetyo, *Tokoh Masyarakat, Tokoh Agama Katolik* (Catholic Religious Figure), 4 December 2023.
- Interview with Rumadi Ahmad, *Tenaga Ahli Utama Deputy 5, Kantor Staf Presiden* (Deputy 5 Main Expert, the Presidential Staff Office), 24 January 2024.
- Interview with Tantowi Anwari, *Manager Program, Serikat Jurnalisme untuk Keberagaman* (Program Manager, Journalism Union for Diversity), 13 December 2023.
- Interview with Wawan Djunaedi, *Plt. Kepala PKUB Kementerian Agama RI* (Head of PKUB Ministry of Religion of the Republic of Indonesia), 12 January 2024.
- Interview with Zainal Bagir, *Staf Pengajar, Center for Religion and Cross Cultural Studies Universitas Gajah Mada, CRCS UGM* (Lecturer at Center for Religion and Cross Cultural Studies Gajah Mada University), 14 December 2023.

Profile of The Indonesian Institute

The Indonesian Institute (TII) is a Center for Public Policy Research that was established on 21 October 2004 by a group of young, dynamic activists and intellectuals. TII is an independent, non-partisan, non-profit institution, whose main funding stems from grants and contributions from foundations, companies, and individuals.

TII has the aim of becoming a main research center in Indonesia for public policy matters and has committed to giving contribution to the debates over public policies and to improving the quality of the planning and results of public policy by promoting good governance principles and public participation in the policy processes in Indonesia.

TII's visions are public policies in Indonesia which highly uphold human rights and rule of law, as well as involve participation of various stakeholders and practice democratic good governance principles.

TII's missions are to conduct reliable research that is independent and non-partisan and to channel the research to the policy-makers, the private sector, and academia in order to improve the quality of Indonesian policy-makers.

TII also assumes the role of disseminating ideas to the society so that they are well informed about the policies that will have a good impact on the people's lives. In other words, TII has a position to support the democratization process and the public policy reform, as it will be involved in the process.

The scope of the research and review on public policies undertaken by TII includes economic, social, political, and legal affairs. The main activities which have been conducted by TII in order to achieve our vision and mission, are: research, surveys, facilitation and advocacy through training and working groups, public discussions, public education, writing weekly editorials (Wacana), publishing monthly studies (Update Indonesia in Indonesian and The Indonesian Update, in English), mid-year policy reviews (Policy Assessment), annual reports (Indonesia Report), monthly discussion forums (The Indonesian Forum, Policy Talks, and Initiative!), as well as the Policy Chat on podcast (Ngobi).

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Before joining The Indonesian Institute, Felia was involved in research project management activities as an Intern Project Manager at one of the Yogyakarta-based research management service provider startups. In line with her research experiences she has done, Felia has a focus and research interests in the fields of women's politics, gender politics, and also religion and politics.

The 2022 Freedom of Religion/Belief Report in Indonesia shows that the trend of violations related to cases of disturbance of houses of worship has continued to increase significantly in the last six years. Furthermore, from 2023 until early January 2024, cases related to the issue of establishing houses of worship will also not end. In the context of freedom to establish houses of worship, enforcement of the constitution is often hampered by implementing regulations, namely Joint Regulations of the Minister of Religion and the Minister of Home Affairs Numbers 8 and 9 of 2006 (the 2006 PBM), one of which regulates permits for the establishment of houses of worship. These requirements tend to be discriminatory and are not implemented well by policy implementers.

The 2006 PBM policy evaluation study conducted by The Indonesian Institute, Center for Public Policy Research (TII) conducted a qualitative study (November 2023 - February 2024) noting that the administrative requirements for building houses of worship in the 2006 PBM also made it difficult for adherents of minority religions and beliefs. Regional governments and officials have not yet taken an approach to fulfilling human rights in resolving conflicts over the establishment of houses of worship. Meanwhile, there is still a dominant way of thinking in society.

This research proposes to encourage the interpretation and implementation of the 2006 PBM based on fulfilling the protection of the right to freedom and belief; revise the requirements for permits to establish houses of worship that are discriminatory and have multiple interpretations; create a comprehensive dispute resolution mechanism with binding results; increasing the human rights perspective for the Indonesian police and army officers; increasing public awareness of diversity and tolerance; optimize the performance of the Forum for Religious Harmony (FKUB) with the support of adequate resources, and carry out multi-stakeholder collaboration to support the fulfillment of the protection of the right to freedom of religion and belief.

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