

Status of Human Rights in Indonesia for the 41st Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of Indonesia (Indonesia) for the 41st session of the Universal Periodic Review (UPR).

Background

2. Indonesia is an archipelago located in southeastern Asia between the Indian and Pacific Ocean, with an estimated population of 275 million people¹. It is a predominately Muslim country, with 87.2% of the population identifying as Muslim, 7% as Protestant, 2.9% as Catholic, 1.7% as Hindu and 0.9% as other². In its 2022 World Watch List, the human rights watchdog organisation, Open Doors, listed Indonesia as the 28th worst place for Christians to live, citing “Islamic oppression” as the primary reason³. Additionally in certain regions such as West Java and Aceh the presence of Islamic extremists pose a grave threat to Christians living there⁴.

3. Indonesia’s previous review was held on 3 May 2017⁵. As a result of the review, Indonesia. Received 225 recommendations, 167 of which Indonesia supported⁶. One supported recommendation was for the government to “[t]ake strong coordinating measures to protect the right to freedom of religion or belief, including by ensuring that all district and provincial laws and regulations align with the Constitution and international human rights obligations of Indonesia”⁷. Another recommendation supported by Indonesia was that the government “[t]ake all necessary measures to protect freedom of religion and belief for persons belonging to all religious groups, including by protecting persons belonging to religious minorities from violence and persecution”⁸.

Legal Framework

4. Article 29 of Indonesia’s Constitution establishes that the State is based on the belief in the “One and Only God” (or “Allah” of the Muslim faith) but then goes on to guarantee freedom of worship:

1. The State shall be based upon the belief in the One and Only God.

2. The State guarantees all persons the freedom of worship, each according to his/her own religion or belief⁹.

5. Furthermore, religious protections are guaranteed in Article 28E of the Constitution:

1. Every person shall be free to choose and to practice the religion of his/her choice, to choose one's education, to choose one's employment, to choose one's citizenship, and to choose one's place of residence within the state territory, to leave it and to subsequently return to it.
 2. Every person shall have the right to the freedom to believe his/her faith (kepercayaan), and to express his/her views and thoughts, in accordance with his/her conscience.
 3. Every person shall have the right to the freedom to associate, to assemble and to express opinions¹⁰.
6. However, Articles 156 through 157 establish an anti-blasphemy law and prevent actions that can be interpreted as inciting hatred against a particular group or religion.

Article 156

A maximum imprisonment of four years or a maximum fine of three hundred Rupiahs shall punish the person who publicly gives expression to feelings of hostility, hatred or contempt against one or more groups of the population of Indonesia.

By group in this and in the following Article shall be understood each part of the population of Indonesia that distinguishes itself from one or more other parts of that population by race, country of origin, religion, origin, descent, nationality or constitutional condition¹¹.

Article 156a

By a maximum imprisonment of five years shall be punished any person who deliberately in public gives expression to feelings or commits an act,

- a. which principally have the character of being at enmity with, abusing or staining a religion, adhered to in Indonesia;
- b. with the intention to prevent a person to adhere to any religion based on the belief of the almighty God¹².

Article 157

Any person who disseminated, openly demonstrates or puts up a writing or portrait where feelings of hostility, hatred or contempt against or among groups of the population of Indonesia are expressed, with intent to give publicity to the contents or to enhance the publicity thereof, shall be punished by a maximum imprisonment of two years and six months or maximum fine of three hundred Rupiahs¹³.

7. Additionally, a joint ministerial decree requires that all religious organisations receive approval from the Ministry of Religious Affairs (MORA) in order to obtain foreign funding¹⁴.

8. Furthermore, a 1970s Decree issued by the Minister of Religion bans all attempts at proselytising¹⁵. As stated in this Decree:

The spread of religion cannot be approved when:

- 1) [it is] directed to a person or persons who already have another religion;
- 2) [it is] done by resorting to enticement/distribution of money, clothes, food/drink, medicines and so on to attract persons who already have another religion;
- 3) [it is] done by disseminating pamphlets, bulletins, magazines, books and other materials in areas/houses where residents have another religion;
- 4) [it is] done by making door-to-door visits on whatever pretext to those who already have another religion¹⁶.

9. In 2006 a Joint Regulation issued by the Minister of Religion and the Minister of Home Affairs created the *Forum Kerukunan Umat Beragama* (FKUB)¹⁷. The FKUB functions as the sole arbiter on matters of interfaith relations¹⁸. Members of the FKUB are chosen by the local governors and mayors and its makeup is to be “proportionate” to the percentage of worshippers in the particular region¹⁹. For example, in Jakarta 85% of the population is Muslim and therefore Muslims occupy 85% of the seats on that regions FKUB²⁰. This gives overwhelming power to the majority religion and they use this power to stifle religious freedom for minority religions²¹. For example, one of the responsibilities of the FKUB is to approve new houses of worship²². As a result, minority religions often face great difficulty in building and renovating houses of worship²³.

10. Indonesia is a party to the International Covenant on Civil and Political Rights (ICCPR), Article 18 of which provides 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 in public or private, to manifest his religion or belief in worship, observance, practice and teaching²⁴.

11. Furthermore, under Article 27 of the ICCPR:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language²⁵.

12. Indonesia is also a party to the Universal Declaration of Human Rights (UDHR), which protects religious freedom with language identical to that found in Article 18 of the ICCPR.

Government Persecution of Religion

13. Since 2004, more than 150 people, mostly from religious minorities have been convicted under Indonesia's blasphemy law²⁶, 38 in the first 4 months of 2019 alone, including 5 individuals under 18²⁷.

14. Incredibly, in September of 2019, Indonesia was poised to *expand* its blasphemy law which would further discriminate against Christians and other religious minorities²⁸. Under the proposed expansion, five anti-blasphemy provisions would be added to the law, as well as greater definition on the elements of the crime²⁹. The new elements would include, among other things, persuading someone to be a non-believer³⁰. This specific provision could be interpreted as persuading someone to leave Islam or any other religion. This is in clear violation of the ICCPR as it prevents one from freely choosing or adopting a religion of their choice. Thankfully, mounting criticism led to President Joko Widodo urging lawmakers to delay the vote³¹. At the time this report was drafted, no vote has been scheduled; however, it is entirely possible that this law could be enacted in the future.

15. While Indonesia's blasphemy law states that it applies to all religions adhered to in Indonesia, it only officially recognizes six religions— Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism – and in its application, the law is predominantly used against people who “blaspheme” against Islam³². According to a spokesman for the Communion of Churches, “In cases of blasphemy, police and law enforcement officials must be fair instead of siding with a certain group. Christians have been arrested and brought to court in blasphemy cases, while those insulting Christianity or other religions have been left alone”³³.

16. In August of 2021, a former Muslim who converted to Christianity was arrested and accused of blaspheming against Islam because of a YouTube video he posted where he said that “Muhammad is unknown by God and is only known by his followers because he is surrounded by devils”³⁴. At the time this report was drafted, he was still being detained at a Jakarta detention centre³⁵.

17. In January of 2019, former Jakarta governor, Basuki Tjahaja Purnama, a Christian, was released from prison after serving nearly two years for blasphemy charges³⁶. He was arrested for comments made during a public event where he told his supporters that a candidate's religious beliefs should not be the reason you vote for them and criticizing the notion that Muslims should not vote for non-Muslims³⁷. Doctored video of this speech was made to imply that he was insulting the Quran³⁸.

18. The decree banning the act of witnessing to your neighbour or handing religious pamphlets is extremely problematic and further infringes on the rights of people to live out their faith peacefully³⁹. Christians, as well as many other faiths, are called upon to go out in the community and spread word of their faith. These types of bans explicitly go against Article 18 of the ICCPR which guarantees the right of an individual to “manifest his religion”⁴⁰.

19. Additionally, requiring approval from MORA in order for religious organisations to obtain foreign funding greatly inhibits their ability to build houses of worship and obtain needed

resources⁴¹. This restriction gives the government more control over religion and allows them to further stifle religious minorities.

20. Furthermore, as previously stated, the FKUB has been weaponized by the majority Muslim population to restrict the religious freedoms of minority religions, particularly Christians. Membership of the FKUB in each province is proportionate to the percentage of worshippers⁴². This gives control to the majority religion. This power has been used by the majority religion, mainly Muslim, to use their veto power to prevent other religious organisations from constructing houses of worship and has resulted in the closures of more than 1,000 Christian churches⁴³.

Religious Extremism

21. Christians also face persecution through attacks carried out by Islamic militants. There have been numerous reports of violent attacks and bombings being carried out by Islamic State (ISIS) linked groups against Christians, often targeting churches. According to Indonesia's former Military Chief General, Gadot Nurmantyo, "In almost every province [of Indonesia] there are already ISIS cells. But they are sleeper cells"⁴⁴.

22. According to reports, on 21 May 2021, members of the East Indonesia Mujahideen, an ISIS affiliated organisation, carried out an attack on a Christian village-- killing four farmers while they were harvesting in the fields⁴⁵. The village's secretary urgently requested help from the government, stating, "Our hope for the government, the president, is to resolve this. If not, we will no longer be able to go out and earn a living . . . Frankly, we feel that no one is paying attention to us"⁴⁶.

23. In March of 2021, two suicide bombers detonated their explosives outside of a Catholic church on the first day of the Easter Holy Week⁴⁷. The attacks took place during the end of mass and while the only individuals killed were the two suicide bombers, at least twenty individuals were wounded⁴⁸. According to police the bombings were carried about by the ISIS affiliated group Jemaah Anshorut Daulah (JAD)⁴⁹.

24. On 27 November 2020, Islamic militants belonging to the East Indonesia Mujahideen attacked a Christian-majority village, killing the village elder and three other Christians⁵⁰. The militants then proceeded to burn a down a Salvation Army church and six houses forcing 750 villagers to flee from their home seeking safety⁵¹.

25. In May of 2018, three bombings were carried out in succession at three separate churches killing eleven individuals and injuring forty others⁵². According to the Wawan Purwanto, Indonesia's intelligence agency, these attacks were carried out by JAD⁵³.

Conclusion

26. Indonesia must reform its laws to ensure that religious freedom is guaranteed to all its citizens not just Muslims. People of all faiths should be permitted to construct houses of worship without allowing the Muslim majority to block their right. Additionally, Indonesia must remove all bans on proselytising so that Christians, and other religious minorities, can peacefully practice the tenets of their faith. Furthermore, religious organisations should be permitted to obtain

foreign funding without approval by MORA so that they can obtain needed resources and construct houses of worship. Indonesia must also commit to not passing laws which further restrict religious liberty but rather take pro-active steps to further protect religious freedom within its laws. Furthermore, the government must act to stop Islamic extremist groups from further carrying out deadly attacks against Christians. These groups must be brought to justice so that Christians are able to openly and freely practice the tenets of their faith without the fear of being killed or having their places of worship bombed.

¹ *Indonesia*, THE WORLD FACTBOOK (20 Oct. 2021), <https://www.cia.gov/the-world-factbook/countries/indonesia/>.

² *Id.*

³ *Indonesia*, OPEN DOORS, <https://www.opendoorsusa.org/christian-persecution/world-watch-list/indonesia/>.

⁴ *Id.*

⁵ *Universal Periodic Review – Indonesia Third Cycle*, UNHRC,

<https://www.ohchr.org/EN/HRBodies/UPR/Pages/IDIndex.aspx>.

⁶ UPR of Indonesia Thematic List of Recommendations, UNHRC,

<https://lib.ohchr.org/HRBodies/UPR/Documents/Session27/ID/MatriceRecommendationsIndonesia.docx>.

⁷ *Id.* at A/HRC/36/7 – Para. 139.

⁸ *Id.*

⁹ Constitution of Indonesia art. 29, https://www.constituteproject.org/constitution/Indonesia_2002.pdf?lang=en

¹⁰ *Id.* at art. 28E.

¹¹ Indonesian Penal Code art. 156, <https://learningpartnership.org/sites/default/files/resources/pdfs/Indonesia-Penal-Code-1982-English.pdf>.

¹² *Id.* at art. 156a.

¹³ *Id.* at art. 157.

¹⁴ *Indonesia Country Profile on Freedom of Religion or Belief (FoRB)*, BERKELEY CENTER (Nov. 2019), https://berkeleycenter.georgetown.edu/publications/indonesia-country-profile-on-freedom-of-religion-or-belief-forb/pdf_download/en.

¹⁵ *Id.*

¹⁶ Ministerial Decision No. 70/1978, https://www.ecoi.net/en/file/local/1051707/1788_1294846009_idn31419.pdf (unofficial translation).

¹⁷ Jonathan Chen, *Maintaining Harmony: Indonesia's Inter-Religious Forum*, RSIS (12 Mar. 2020),

<https://www.rsis.edu.sg/wp-content/uploads/2020/03/CO20038.pdf>.

¹⁸ *Id.*

¹⁹ Andreas Harsono, *India's 'Religious Harmony' Regulation Brings Anything But*, HUMAN RIGHTS WATCH (11 Apr. 2020), <https://www.hrw.org/news/2020/04/11/indonesias-religious-harmony-regulation-brings-anything>.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. 95-20, 6 I.L.M. 368 (1976), 999 U.N.T.S. 171, art. 18.

²⁵ *Id.* at art. 27.

²⁶ Brad Adams, *Two Preachers in Indonesia Charged with Blasphemy*, HUMAN RIGHTS WATCH (9 Sep. 2021), <https://www.hrw.org/news/2021/09/09/two-preachers-indonesia-charged-blasphemy#>.

²⁷ Tara Marchelin, *Legal Aid Foundation Finds More Than 30 Blasphemy Cases in Five Months*, JAKARTA GLOBE

²⁸ Andreas Harsono, *Indonesia to Expand Abusive Blasphemy Law*, HUMAN RIGHTS WATCH (31 Oct. 2019), <https://www.hrw.org/news/2019/10/31/indonesia-expand-abusive-blasphemy-law>.

²⁹ *Id.*

³⁰ *Id.*

³¹ Niniek Karmini, *Indonesia's President Delays Vote on New Criminal Code*, AP NEWS (20 Sep. 2019), <https://apnews.com/article/d45e02a684024700a0edccdcf72bf8f1>.

³² Brad Adams, *supra* note 26.

³³ Anugrah Kumar, *Muslim Cleric Arrested on Blasphemy Charges for Insulting Christianity, Calling the Bible Fiction*, CHRISTIAN POST (30 Aug. 2021), <https://www.christianpost.com/news/indonesia-muslim-cleric-arrested-for-insulting-christianity.html>.

³⁴ Konradus Epa, Jakarta, *Indonesian Police Arrest Christian YouTuber for Blasphemy*, UCA NEWS (25 Aug. 2021), <https://www.ucanews.com/news/indonesian-police-arrest-christian-youtuber-for-blasphemy/93858>.

³⁵ Brad Adams, *supra* note 26.

³⁶ *Indonesian Christian Politician Held on Blasphemy Charges Released from Jail*, WASHINGTON POST (24 Jan. 2019), https://www.washingtonpost.com/world/asia_pacific/indonesian-christian-politician-held-on-blasphemy-charges-released-from-jail/2019/01/24/29e37422-1fac-11e9-bda9-d6efefc397e8_story.html.

³⁷ *Id.*

³⁸ *Id.*

³⁹ Ministerial Decision No. 70/1978, https://www.ecoi.net/en/file/local/1051707/1788_1294846009_idn31419.pdf (unofficial translation).

⁴⁰ ICCPR, *supra* note 24, at art. 18.

⁴¹ *Indonesia Country Profile on Freedom of Religion or Belief (FoRB)*, BERKELEY CENTER (Nov. 2019), https://berkeleycenter.georgetown.edu/publications/indonesia-country-profile-on-freedom-of-religion-or-belief-forb/pdf_download/en.

⁴² Morgan Lee, *How Indonesia's Law 'Religious Harmony' Has Closed 1,000 Churches*, CHRISTIANITY TODAY (10 Nov. 2015), <https://www.christianitytoday.com/news/2015/november/how-indonesias-religious-harmony-law-has-closed-1000-church.html>.

⁴³ *Id.*

⁴⁴ Joseph Hincks, *Indonesia Suffers Its Worst Terrorist Attack in a Decade. Here's What to Know About the Latest Wave of Violence*, TIME (14 Mar. 2018), <https://time.com/5275738/indonesia-suicide-bombings-isis-surabaya/>.

⁴⁵ *Indonesian Villagers Demand "Firm Action" After Terror Attack Kills 4*, VOA NEWS (13 May. 2021), https://www.voanews.com/a/extremism-watch_indonesian-villagers-demand-firm-action-after-terror-attack-kills-4/6205792.html.

⁴⁶ *Id.*

⁴⁷ *Suicide Attack Rocks Indonesia Church, Several Wounded*, ALJAZEERA (28 Mar. 2021), <https://www.aljazeera.com/news/2021/3/28/suspected-suicide-attack-rocks-indonesia-church-many-wounded>.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Andreas Harsono, *Brutal Attack in Indonesia Targets Christian Farmers*, HUMAN RIGHTS WATCH (2 Dec. 2020), <https://www.hrw.org/news/2020/12/02/brutal-attack-indonesia-targets-christian-farmers>.

⁵¹ *Id.*

⁵² *Surabaya Attacks: 11 Killed in Indonesia Church Bombings*, BBC (13 May 2018), <https://www.bbc.com/news/world-asia-44097771>.

⁵³ *Id.*