



Taking Perspective Between Indonesia and Germany: The Establishment of *Quo Vadis* House of Worship

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Article	Abstract
Keywords: House of Worship; Licensing; Establishment; Right to Worship; Religions Article History Received: Oct 02, 2024; Reviewed: Nov 04, 2024; Accepted: Jan 21, 2025; Published: Jan 27, 2025.	<i>This paper discusses about licensing the establishment of houses of worship. In practice, the licensing arrangements for worship in both countries have significant differences. Indonesia has a bureaucratic approach that is formal, administrative, and social and community-based. Indonesia specifically regulates the requirements for the establishment of houses of worship in PBM 9 & 8/2006. Administrative, technical, and special requirements are required to obtain licenses. However, PBM 9&8/2006 has a loophole for the rejection of houses of worship, thus potentially inhibiting freedom of worship. On the other hand, Germany takes an ecological, spatial, and architectural approach to licensing houses of worship. Germany adheres to BauGB as a regulation related to building construction by paying attention to FNP and B-Plan as guidelines. This normative juridical research uses comparative, conceptual, and statutory approaches. The main finding of this research is that the two countries have different approaches in considering permits for the establishment of houses of worship. It is found that the difference between the two lies in the aspects of regulation, characteristics, and the approach to resolving disputes over the establishment of houses of worship.</i>



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INTRODUCTION

Religious freedom in Indonesia is guaranteed in Article 28E paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which reads, "*Every person is free to embrace a religion and worship according to his religion*". This characterises Indonesia as a state of the Almighty God, but it does not mean that Indonesia is religious or even secular

(Listari, 2023). For this reason, the state must ensure the protection of the rights of religious communities (Arifin, R., et al., 2021). The relationship between the state and religion is like two sides of a coin; both are different but inseparable (Shaleh & Wisnaeni, 2019). There needs to be a balance to maintain plurality harmony in Indonesia. This is necessary to ensure that the existing plurality serves as the instrument to advance national development.

In 2023, the Ministry of Religious Affairs released the Religious Harmony Index (*Kerukunan Umat Beragama/KUB*) in Indonesia, reaching 76.02 points (Kementerian Agama, 2024), a significant increase from 73.09 points in 2022. This indicates a positive trend. This trend is inversely proportional to the research conducted by PEW Research with the theme *Annual Study of Restrictions on Religion* in the period 2007 to 2018. PEW Research researched 198 countries in the world using 2 (two) indices, namely the *Social Hostility Index* (SHI), which serves to measure the friction that occurs in society related to social diversity and the *Government Restriction Index* (GRI), which serves to measure the restrictions given by the government in religious freedom. Higher points in the indices indicate greater obstacles in religion. Indonesia has high restrictions, reaching a score of 7.7 on the GRI and a score of 6.7 on the SHI (Chudzaifah et al., 2024). These scores are markedly different from the average GRI global score at the international level (2.9) and SHI (2) (Chudzaifah et al., 2024). Therefore, active participation from the government and the community is required to support the achievement of higher points in KUB and lower GRI and SHI scores.

Religious conflicts are often inevitable, which can disrupt the stability and security of the country (Safi' et al., 2024). Furthermore, it can also jeopardise the KUB that has been built with great difficulty. The report of the Research and Development Agency, as well as the Ministry of Religious Affairs, according to the implementation of religion, found that there are at least 7 (seven) factors that can trigger conflict between religious communities: 1. the establishment of houses of worship, 2. religious broadcasting, 3. assistance from and/or to foreign countries, 4. Interfaith marriage, 5. celebration of religious holidays, 6. blasphemy, and 7. deviant practices against religion or belief (Ali, 2009). One of the causes of religious conflict is the establishment of houses of worship, especially for religious minorities in a region. It often sparks an issue that causes national unrest. The Political Research Center of the Institute of Sciences, cited by Setara Institute in 2018, conducted a survey and found that 52% disagreed with the construction of houses of worship of other religions in their neighbourhood (Suryawati & Syaputri, 2022). This fact is also supported by other research conducted by the Setara Institute regarding the Freedom of Religion or Belief Report, which states a significant disturbance to houses of worship. The findings explained that in 2022, there were at least 50 cases of disruption to houses of worship, involving 21 churches, 16 mosques, four temples, four prayer rooms, and one house of

worship for indigenous faiths (Hasan, 2023). This situation may hamper efforts to fulfil human rights, as stated in Article 29 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, "*The state guarantees the independence of each resident to embrace their respective religions and to worship according to their religion and belief.*" The rejection of the establishment of houses of worship for other religions certainly discredits and weakens a religious adherence to exercise the rights guaranteed in the constitution (Yasin, 2021). Whereas houses of worship are important facilities and infrastructure for religious people, houses of worship become places to fulfil spiritual needs that cannot be delayed and put aside (Nifutu, 2023).

To surmount these issues, the government, through the Ministry of Religious Affairs and the Ministry of Home Affairs, released a Joint Regulation of the Minister of Religious Affairs and the Minister of Home Affairs Number 8 and 9 concerning Guidelines for the Implementation of Duties of Regional Heads/Deputy Regional Heads in the Maintenance of Religious Harmony, Empowerment of Religious Harmony Forums and the Establishment of Houses of Worship (hereinafter referred to as *Peraturan Bersama Menteri/PBM 9 and 8/2006*). In its substance, PBM 9 and 8/2006 regulate the licensing of the establishment of houses of worship in Indonesia. PBM 9 and 8/2006 are made to provide arrangements related to the establishment of houses of worship to ensure legal certainty and avoid conflict. However, the issuance of PBM 9 and 8/2006 triggered many conflicts related to the establishment of houses of worship, particularly in Article 14 of PBM 9 and 8/2006, which regulates the administrative and technical requirements for establishing houses of worship. This statutory article explains that in addition to these two requirements, the establishment of houses of worship must also fulfil special requirements, such as: 1. at least 90 (ninety) Identity Cards (KTP) of the users of houses of worship authorised by local officials according to the level of territorial boundaries, 2. support from the local community represented by at least 60 (sixty) people authorised by the head of the village or local village head, 3. written recommendations from the regency or city religious department office, and 4. recommendations from the Religious Harmony Forum (*Forum Kerukunan Umat Beragama/FKUB*).

The special requirements are intended to prevent discriminatory practices (Purbolaksono, 2023). PBM 9 and 8/2006 functions as *regeling*, which refers to government action under public law that is general and abstract, such as ministerial regulations (Al-Fatih & Muluk, 2023). Freedom of religion and worship is one part of the freedom of external rights (*forum externum*) that the state can restrict. However, as stipulated in Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia and Article 70 of Law No. 39 of 1999 concerning Human Rights, restrictions on human rights must use regulations in the form of laws (Nurahmani & Sihombing, 2022). This is also reinforced by the International Covenant on Civil and Political Rights (ICCPR), which Indonesia ratified in 2005. Article 18 paragraph (3) ICCPR specifies that

freedom to practice and determine religion can only be limited by 1. clear legal regulations, 2. the existence of fundamental reasons, 3. protecting security and order, 4. public health and morals, and 5. the fundamental rights and freedoms of others. This shows that the establishment of houses of worship should be regulated by a law, not regulations under it.

In practice, many deviations arise from the multi-interpretive nature of the articles in PBM 9 and 8/2006. For example, Article 13 of PBM 9 and 8/2006 explains that if the requirement of real needs for community services is not met, then consideration of the composition of the population within the boundaries of the sub-district, district/city, or province is used. However, the regulation does not clearly define how the composition of the population is assessed in qualitative terms. Similarly, the term "local" in some articles is often ambiguous. This ambiguity has led to instances where the establishment of houses of worship has been obstructed by individuals or groups from other regions (sub-districts, regencies/cities, other provinces) (Purbolaksono, 2023). This issue arises from the lack of a clear and explicit definition of "local" in the regulation.

The National Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia/Komnas HAM*) in 2020 made a study on PBM 9 and 8/2006. The study included a comparison of countries related to the establishment of houses of worship, such as the United States, India, Italy, Austria, Spain, and Kazakhstan (Agus Suntoro et al., 2020). Some comparisons of the regulations regarding the establishment of houses of worship can serve as references for the government to improve the regulations in PBM 9 and 8/2006. Germany is one of the countries other than those studied by Komnas HAM that can be used as a comparison. Research from Komnas HAM and other studies have not explained the comparison of the establishment of houses of worship between Indonesia and Germany. Research on houses of worship in Germany has explored the establishment of houses of worship for minority groups, such as Hindus (Brigitte Luchesi, 2020) and Muslims (Rafid Sugandi et al., 2024). However, the research primarily adopts an empirical approach rather than a normative juridical perspective. In contrast, this research focuses more on comparing the normative juridical aspects of house of worship regulations in Germany, building continuity with earlier studies on the effectiveness of such establishments in the country.

Article 4 of the German constitution (*Grundgesetz für die Bundesrepublik Deutschland*) guarantees that freedom of religion is inviolable. The implementation is in the establishment of houses of worship that have rules with environmental and spatial approaches. In addition, the mediation approach used is public consultation but does not require the support of the local community. Therefore, this can be a comparison to the problem of the establishments in Indonesia related to the licensing aspect, the approach of socialisation and/or mediation to the community, and the requirements

that are too administrative.

METHOD

This paper employs a normative-juridical method examining the law as rules relevant to normative juridical research or written legal research (Ansari & Negara, 2023; Soekanto & Mamudji, 2010). This approach involves analysing related theories, legal concepts, principles, and laws and regulations relevant to the issues discussed. Normative juridical research uses secondary data, such as regulations, literature, and legal documents, supported by statutory (Marzuki, 2014) and comparative approaches (Suganda, 2022).

This study also uses primary, secondary, and tertiary legal materials. Primary legal materials include regulations, while secondary materials are drawn from reading materials such as books, journals, and theses. Tertiary materials include legal dictionaries, which serve as official references for scientific writing. This paper also uses comparative analysis by comparing the existing regulations in Indonesia and Germany related to the permit to establish houses of worship. The study identifies differences and similarities between the two countries by analysing these regulations.

RESULTS AND DISCUSSION

Licensing Arrangements for Houses of Worship Establishment with Legal Certainty in Indonesia and Germany

Licensing from the government to establish houses of worship in Indonesia and Germany takes several stages. Indonesia and Germany have different mechanisms, requirements, and approaches for granting licenses related to houses of worship. This can happen based on the two countries' different cultures and social structures.

Indonesia specifically regulates the establishment of houses of worship in PBM 9 and 8/2006. Despite many controversies, PBM 9 and 8/2006 are still valid as the regulations governing the establishment of worship houses. As the only regulation that explicitly explains matters related to houses of worship, PBM 9 and 8/2006 have weaknesses in law enforcement (Sulistiyo et al., 2023). A. Yewangoe argues that the implications of the regulations contained in PBM 9 and 8/2006 are not legal products that come from regulation-making bodies such as the DPR or executives such as the President, so the final responsibility lies with each Minister (Janah & Baroroh, 2021). Substantially, PBM 9 and 8/2006 do not limit the rights related to freedom of religion as stated in the 1945 Constitution of the Republic of Indonesia (Sulistiyo et al., 2023). This administratively has the value of procedural justice in establishing religious harmony. Although it has this value, loopholes remain.

However, PBM 9 and 8/2006 inhibit the establishment of houses of worship, making it possible to degrade the right to worship. In their implementation, PBM 9 and 8/2006 have problems that intersect with religious harmony. Articles 13 and 14 in PBM 9 and 8/2006 often become obstacles to establishing houses of worship in

Indonesia. The restriction is not prohibited, especially regarding public order. The problem lies in the form of regulations, the wording of the article, and the requirements that tend to be administrative. This causes different interpretations, and paradigm shifts in understanding the diversity of a religious community in the region. While PBM 9 and 8/2006 specifically regulate the establishment of houses of worship, they are not the sole regulations governing this matter (Jellin & Suwondo, 2019). Article 14, paragraph (1) of PBM 9 and 8/2006 outlines the need to fulfil administrative and building requirements for establishing a house of worship in Indonesia, and paragraph (2) introduces special requirements.

This framework indicates that the overarching regulation related to Building Permit (*Izin Mendirikan Bangunan/IMB*) is Law No. 28 of 2002 concerning Buildings (hereinafter referred to as Building Law). However, PBM 9 and 8/2006 do not provide detailed explanations regarding administrative and technical requirements, requiring reference to Government Regulation No. 36/2005 concerning the Implementation Regulation of Law No. 28/2002 concerning Buildings (hereinafter referred to as GR 36/2005). Article 8 of PP 36/2005 specifies that administrative requirements include: 1. land rights status and/or utilisation permit, 2. building ownership, and 3. Building construction permit. On the other hand, the technical requirements of the building include 1. building layout and 2. building reliability requirements. This indicates that PBM 9 and 8/2006 do not operate in isolation but are interconnected with other regulations. PBM 9 and 8/2006 have contributed in terms of regulating special conditions that become restrictions, regulating the authority of local governments in maintaining religious harmony and empowering FKUB.

The enactment of Government Regulations in Lieu of Law No. 2 of 2022 concerning Job Creation (*Peraturan Pengganti Undang-undang Cipta Kerja/Perpu Cipta Kerja*), which has been altered to a law based on Law No. 6 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law No. 2 of 2022 concerning Job Creation into Law (hereinafter referred to as the *Cipta Kerja/Ciptaker* Law), introduced significant changes to the Building Law. The most notable change is the shift in the nomenclature from Building Permit (IMB) to Building Approval (*Perizinan Bangunan Gedung/PBG*) (Sanjaya, 2024).

The fundamental difference between IMB and PBG lies in the licensing flow (Maggara & Frinaldi, 2023). In IMB, the technical building must be attached when applying for a permit, while the PBG must meet predetermined technical standards and does not require the building owner to apply for a permit before starting construction (Rohalia & Meilani, 2023). The influence of PBG on houses of worship can also be seen in the form of sanctions applied. When the function of the building changes and the owner fails to apply for a new PBG permit, administrative sanctions may be imposed. This situation is common among houses of worship that lack formal permits and operate in

buildings originally approved for other functions. Although PBM 9 and 8/2006 include provisions for temporary permits for building use, these permits lack strong legal legitimacy. Furthermore, under Article 19, paragraph (2) of PBM 9 and 8/2006, temporary permits are valid for only two years, which increases the likelihood of rejection.

This challenge is exacerbated by requirements such as recommendations from local village heads (*lurah*) and written approval from FKUB, both of which are prone to rejection due to pressure from majority groups in certain areas opposing the establishment of houses of worship (Agus Suntoro et al., 2020). Changes to the Building Law and Job Creation Law have led to changes in the subordinate regulations, where Government Regulation (PP) 36/2005 changed into PP No. 16/2021 concerning the Subordinate Regulations of Law Number 28/2002 concerning Buildings (hereinafter referred to as PP 16/2021) (Pratama & Lewiandy, 2024). A notable difference in PP 16/2021, compared to PBM 9 and 8/2006, lies in the omission of explicit administrative and technical requirements.

For this reason, the National Public Service Information System (*Sistem Informasi Pelayanan Publik Nasional/SIPP*) outline the requirements for obtaining Building Approval (*Perizinan Bangunan Gedung/PBG*). These include *first*, land data covering land documents, land boundary drawings, building drawings, and land contour drawings and/or descriptions; *second*, general data including ID card (*Kartu Tanda Penduduk/KTP*), land utilisation agreement letter, Flight Operation (*Safety Provisions (Kawasan Keselamatan Operasi Penerbangan/KKOP)*), Land Use Designation Permit (*Surat Izin Penunjukkan Penggunaan Tanah/SIPPT*), Religious Harmony Letter (*Surat Kerukunan Umat Beragama/SKUB*), Architectural Design Concept, situation drawing, spatial plan drawing, and general and special specifications; *third*, technical provisions including detailed drawings of building structures, technical specifications and general specifications, and technical calculations of detailed lightning rod plans. While SIPP does not explain the special requirements in PBM 9 and 8/2006, this does not render them irrelevant. These requirements still apply, particularly regarding SKUB, which mandates a minimum requirement of 90 KTPs from religious adherents who will establish a house of worship and 60 statements of support from the local community.

To guarantee the freedom of religion in Germany, Article 4 paragraph (1) of the *Grundgesetz für die Bundesrepublik Deutschland* states, "Freedom of religion, freedom of conscience, and freedom to recognize religious and ideological beliefs shall not be infringed" (Fischer & Morhman, 2021). This provision applies to the establishment of houses of worship in Germany. In general, the difference in permit requirements related to the establishment of houses of worship in Germany is that it does not require special conditions. Germany focuses on the building's environmental, spatial, and architectural aspects. This matter is regulated under the *Baugesetzbuch* (BauGB), which governs planning and development. Unlike in Indonesia, Germany does not have a

special arrangement for houses of worship and no specific rules for licensing houses of worship apply. The characteristics of Germany as a federal state also provide space for states to take part in the regulation of buildings (Popelier, 2021), as outlined in the *Landesbauordnung* (LBO), which regulates state buildings.

Germany, which focuses on environmental, spatial, and architectural aspects, sets strict standards for building construction. Building construction permits, including houses of worship, must follow Germany's regional spatial plan. Two levels of regional spatial planning in Germany apply: *Flächennutzungsplan* (FNP) and *Bebauungsplan* (B-Plan). Section 5 (1) BauGB, stating:

The land use plan (FNP) for the entire municipal area shall describe the type of land use resulting from the urban development plan in accordance with the estimated needs of the municipality. Areas and other representations may be excluded from the land use plan if this does not affect the basic features to be presented in accordance with sentence 1, and shall the municipality implement such representations at a later date, the reasons shall be explained in the justification.

Meanwhile, the B-Plan is a detailed specification of the FNP, specifically described in Article 9 paragraph (1), with at least 26 (twenty-six) conditions that must be considered. The B-Plan also provides protection for buildings that must be protected and located far from entertainment venues on moral grounds. These buildings include churches, schools, and daycare centres. In Indonesia, the Regional Spatial Plan (*Rencana Tata Ruang Wilayah*/RTRW) equates to the FNP, and the Detailed Spatial Plan (*Rencana Detail Tata Ruang*/RDTR) equates to the B-Plan. However, regarding development, especially houses of worship, RTRW and RDTR do not occupy the main role in determining the licensing and establishment of houses of worship (Arnowo, 2023). Germany places the FNP and B-Plan in the main role to make decisions because they are related to environmental, spatial, and architectural aspects. Spatial planning is an important aspect in sustainable development, one of which is the fulfilment of the spiritual needs of religious people.

Confirmation of the applicability of FNP and B-Plan is contained in Articles 29 and 30 of BauGB. Exceptions to the B-Plan are explained in Article 31 of BauGB, which states that for the welfare of the community, such as the fulfilment of social needs, an application can be submitted as long as it does not conflict with the public interest in the B-Plan (environment, traffic, etc.). This shows that even though the licensing is quite strict regarding FNP and B-Plan compliance, the German government makes allowances for social aspects. The role of the government is crucial in granting licenses based on FNP and B-Plan considerations.

Several stages must be passed to apply for a house of worship license in Germany. The first stage requires consultation with the local planning agency (*Bauamt*) to ensure that the construction plan is in accordance with the FNP and B-Plan. *Bauamt*, in

this case, will provide consideration and document requirements needed for licensing because the Environmental Impact Assessment (EIA) in Germany is applied conditionally based on the place of development. While the category is based on the type of project, which requires no EIA for houses of worship in Indonesia, it depends on the situation of the place of establishment of houses of worship in Germany. The documents required in licensing are delegated to each state, as outlined in the State Building Regulations (*Bauordnung*). In general, the required documents include a Building Plan (*Baupläne*), Environmental Impact Assessment (*Umweltverträglichkeitsprüfung/ UVP*), Traffic Impact Analysis (*Verkehrsflussanalyse*), and Technical Standard from technical standardisation institution (*Deutsches Institut für Normung/ DIN*). The completed documents are then submitted to *Bauamt* for evaluation. Under separate regulations, the public can submit comments previously announced on the development (Article 3 BauGB). In case of objections, the German government facilitates a public consultation. The public consultation is not decisive, but a provision in BauGB related to the FNP and B-Plan is. Objections must also address concerns about environmental, architectural and spatial impacts.

Characteristics of House of Worship Regulations in Indonesia and Germany

The regulatory characteristics of the establishment of houses of worship in Indonesia and Germany reflect differences in approaches to religious freedom, administrative regulation, and social interaction. PBM 9 and 8/2006, as a special regulation for the establishment of houses of worship, requires houses of worship to fulfil administrative and technical requirements, along with support from the surrounding community. This can result in resistance from the local community, especially for religious minorities, who often face difficulties in obtaining permits. Some studies show that the implementation of religious tolerance is still at the government level but has not been cultivated at the grassroots (Sulistiyo et al., 2023). PBM 9 and 8/2006 in the level of implementation, often faces challenges, including discrimination against religious minorities and interfaith conflicts that can hinder the establishment of houses of worship. The characteristics of regulation in Indonesia are based on the fulfilment of administrative-technical requirements that are quite strict but often formal, socially based, and *double* licensing through FKUB and PBG.

Germany agrees that building permits are important to development, realised through accurate, transparent, and efficient local regulations (Fauth et al., 2024). Support from the surrounding community is not an absolute requirement for the establishment of houses of worship in Germany. The government encourages tolerance, and projects such as the *House of One* in Berlin demonstrate efforts to create spaces for different religions to worship together. Although there is no requirement for community support, the construction of houses of worship must still comply with local regulations relating to safety and strict building technicalities submitted to *Bauamt*.

The regulation of the establishment of houses of worship in Indonesia and Germany shows significant differences in the approach to licensing the establishment of houses of worship. Indonesia has strict regulations with the requirement of community support, which often causes conflict, especially for religious minorities in one region. On the other hand, with FNP and B-Plan, Germany has a high standard of compliance with spatial regulations, considering ecological, spatial, and layout factors. Through its legislation, the German government ensures that no particular faith, even if it is the majority in society, will dominate and later be tolerated by adherents of other faiths. This is in line with the opinion of Thomas Schmitz, a DAAD Lecturer, saying in a Science Talk entitled "Freedom of Religion and Tolerance in a Pluralistic Society - the Example of Germany" that Germany is not a Christian country but a pluralist one (Schmitz, 2021). However, this freedom is not merely left unchecked but is given limits to create order and justice (Dahoklory & Wardhani, 2020). So, in this case, the government as an institution is expected to be neutral and not associated with any belief.

Moreover, based on the author's direct observation and experience living in Germany, the permit to establish a house of worship in Germany is under the authority of the Federal State, not the central Government, considering that Germany is a Federal State, not a Unitary State like Indonesia). Therefore, the permit to establish a house of worship must start from the city. Several cases in Germany involving disputes over mosque construction stem from resistance in certain areas to their presence. This issue is like the challenges faced in Indonesia. Since Germany places a high value on protecting individual rights, the presence of a mosque is often perceived as a potential source of disturbances that might infringe upon those rights.

Approaches to Resolving Houses of Worship in Indonesia and Germany

The approaches to addressing issues surrounding the establishment of houses of worship in Indonesia and Germany differ significantly due to their distinct legal, social, and cultural contexts. In Indonesia, such disputes are often addressed through deliberation, with litigation serving as a last resort if dialogue fails to resolve the matter (Razak et al., 2022). While this approach emphasises the importance of dialogue, it is often ineffective and can prolong conflicts (Sulistiyo et al., 2023). Despite clear regulations, implementation on the ground often faces challenges, such as community resistance, often experienced by religious minorities. This shows that despite the legal framework, social realities can potentially hinder the right to freedom of worship.

The author takes the example of the Methodist Church Conflict in Jambi City, Indonesia. This conflict arose based on factors related to the permit to establish a house of worship of the Methodist Church located in Besar Village, Alam Barajo Subdistrict, Jambi City (Firdaus et al., 2023). This began with complaints from residents who objected to the establishment of a house of prayer (Methodist Church). Residents

felt the existence of the church to cause commotion because illegal mass events appeared, their origin was unclear, and they violated the safety and comfort of local residents. This is also reinforced by the absence of a permit for the establishment of the Methodist Church, which has not met the requirements for getting a permit to build a house of worship from 90 church members and a total of 60 local residents (Firdaus et al., 2023).

The government has attempted to resolve the conflict over the establishment of the Methodist Church by reviewing the licensing documents for houses of worship. The Jambi City Government and the Religious Harmony Forum (FKUB) also conducted fact checks in the field to examine the violations that the Methodist Church committed (Firdaus et al., 2023). Supervision and security efforts were carried out to anticipate and reduce violence between the two conflicting parties. Then, mediation and negotiation efforts were made to settle the issue by being open to the views of the neutral third party. To maintain the security and tranquillity of Jambi City, the government imposed a seal on the property on September 27, 2018 (Badan Litbang dan Diklat Kementerian Agama RI, 2018). Another rejection related to houses of worship was the establishment of a mosque in Andai, Manokwari, West Papua in 2015 (Mustafa, 2019). The rejection was based on most of the community complaining that the mosque had not obtained an IMB permit (now PBG) and asked for respect for the Papuan civilisation entity, which is predominantly Christian. Finally, in 2016, the mosque could only be rebuilt while waiting for permission when the tensions in the area subsided (Setiawan, 2015).

In resolving conflicts related to the establishment of houses of worship, Indonesia mostly goes through deliberation (Agus Suntoro et al., 2020). Article 21, paragraph (1) of PBM 9 and 8/2006 stipulates that disputes are resolved by deliberation by the local community. However, this approach is often ineffective and can potentially prolong conflict. If the deliberation does not result in common ground, Article 21 paragraph (2) of PBM 9 and 8/2006 calls for the district head/mayor to intervene, assisted by the district/municipal religious department and on the recommendation of the FKUB. As a last resort, unresolved disputes will be brought to the local court. The head of the region has an important position and role in determining conflict resolution (Suryawati & Syaputri, 2022). This refers to PBM 9 and 8/2006, in which the Regional Head has the role of issuing IMB (now PBG) and assisting in mediation of problem resolution. This central role sometimes has obstacles due to the lack of legal knowledge of the Regional Head in settling disputes over the establishment of houses of worship.

In Germany, there have been several instances of resistance from citizens regarding the construction of houses of worship, especially in the case of mosque construction. This rejection is caused by many factors, such as concerns about noise, traffic impacts, changes in neighbourhood character, or even more sensitive issues, such as fear of immigration and integration. One of the most highlighted cases is the construction of the Cologne Central Mosque, one of Europe's largest mosques (Aljazeera,

n.d.). The construction of this mosque faced resistance and protests from some citizens and certain political groups. They argued that a mosque with a tall minaret would change the face of the city and feared the symbolism it would bring. Despite the protests, the mosque was eventually built and inaugurated in 2018. Something similar happened in the small town of Penzberg, Bavaria. There was initial resistance to the construction of a mosque initiated by the local Muslim community. However, after an intense dialogue between the local government, the Muslim community, and the residents, the mosque finally received support and was allowed to be built (Ben Knight, 2016). Germany's approach to public consultation is more formal and extensive. This is outlined in Article 15 of the BauGB, which regulates the procedural refusal of buildings, including houses of worship, determined based on environmental, spatial, and architectural reasons. Later, the objections will be facilitated in a public consultation discussion forum. *Bauamt* can accept or reject the objection with consideration of conformity with the FNP and B-Plan. In addition, litigation can be pursued under Articles 68-73 of the *Verwaltungsverfahrensgesetz* (VwVfG) or the Administrative Procedure Law.

CONCLUSION

Indonesia and Germany, in their state constitution, guarantee freedom of religion and freedom to worship. However, the two countries differ in regulating the establishment of houses of worship in ensuring legal certainty. Indonesia specifically regulates the establishment of houses of worship in PBM 9 & 8/2006. The regulation substantially contains requirements that must be met for houses of worship to obtain a license, such as administrative requirements, technical requirements, and special requirements. These special requirements include the support from at least 60 people from the local community, a minimum of 90 ID cards from the congregation, recommendations from FKUB, and recommendations from the district/city religious department. This often hinders the establishment of houses of worship for minorities in a region. The existence of pressure from the majority religious group in a region allows pressure not to issue licenses for houses of worship. The characteristics of licensing the establishment of houses of worship in Indonesia are bureaucracy-formality, administrative, and social and community-based. The settlement of disputes over houses of worship in Indonesia has a deliberative approach. However, it is not fully effective and has the potential for religious people to worship. It is different from Germany, which does not have special requirements. Germany has an ecological, architectural, and spatial-based approach. This is strictly regulated in BauGB in terms of FNP and B-Plan. Disputes over the establishment of houses of worship will be considered based on the suitability of the FNP, B-Plan, and possible ecological impacts. Such disputes will be facilitated in a formal public consultation. The authority may grant a license if there is no fault in violating the FNP and B-Plan.

In this case, Indonesia can consider taking an approach to the establishment of houses of worship that is based on an ecological, architectural, and spatial-based approach. In addition, it also applies a more comprehensive deliberation method in resolving disputes over houses of worship. On the other hand, to strengthen good relations between countries, bilateral cooperation can be carried out, and Germany can take views related to Muslim communities from Indonesia, a country with the largest Muslim population in the world.

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REFERENCES

- Agus Suntoro, Mardhika Agestyning Hermanto, Nadia Farikhati, Okta Rina Fitri, Ronny Rizky, & Ronny Josua Limbong. (2020). *Kajian Komnas HAM RI atas PBM No. 9 dan 8 tahun 2006 terkait Pendirian Rumah Ibadah*. Komnas HAM RI.
- Al-Fatih, S., & Muluk, M. R. K. (2023). Understanding Beschikking, Regeling, and Beleidsregel in Indonesian Legal System. *Audito Comparative Law Journal*, 4(2), 87–95. <https://doi.org/10.22219/aclj.v4i2.25417>
- Ali, M. (2009). *Pemetaan Kerukunan Kehidupan Beragama di berbagai Daerah di Indonesia*. Departemen Agama RI, Badan Litbang dan Diklat, Puslitbang Kehidupan Keagamaan.
- Aljazeera. (n.d.). Germany's Largest Mosque to Broadcast Call to Prayer on Fridays. *Aljazeera*. <https://aljazeera.com/news/2021/10/11/germanys-largest-mosque-to-broadcast-call-to-prayer-on-fridays>
- Arifin, R., Helmi, H., Nte, N. D., Waspiah, W., & Latifiani, D. (2021). The adversity on establishing places of worship: has religious freedom failed in Indonesia?. *Legality: Jurnal Ilmiah Hukum*, 29(1), 93–113. <https://doi.org/10.22219/ljih.v29i1.15317>
- Arnowo, H. (2023). Mengkaji Potensi Kesesuaian Kegiatan Pemanfaatan Ruang (KKPR) Untuk Pengendalian Pemanfaatan Ruang dan Tertib Pertanahan. *Jurnal Widya Bhumi*, 3(2), 99–112.
- Badan Litbang dan Diklat Kementerian Agama RI. (2018). *Turun ke Jambi, Fakta Menjelaskan Penyegehan Tiga Gereja Tepat Menghindari Konflik*. <https://balitbangdiklat.kemenag.go.id/berita/turun-ke-jambi-fakta-menjelaskan-penyegehan-tiga-gereja-tepat-menghindari-konflik>
- Ben Knight. (2016, March 30). Bavarian AfD Wants to Shut Down Mosques. *DW*. <https://www.dw.com/en/bavarian-afd-wants-to-shut-down-mosques/a-19149600>

- Brigitte Luchesi. (2020). *Handbook of Hinduism in Europe* (Vol. 2). Brill.
- Chudzaifah, I., Sirait, S., Arif, M., & Hikmah, A. N. (2024). Membangun Kerukunan Antarumat Beragama: Peran Strategis PAI dalam Meningkatkan Dialog, Toleransi dan Keharmonisan di Indonesia. *Jurnal Pendidikan Islam*, 10(1), 1–12.
- Dahoklory, M. V., & Wardhani, L. T. A. L. (2020). Rekonstruksi Nilai-nilai Pancasila dalam Undang-undang. *Sasi*, 26(3), 297–309.
- Fauth, J., Bloch, T., Noardo, F., Nicholas, N., Kaiser, S. B., Gade, P. N., & Tekavec, J. (2024). Taxonomy for building permit system—Organizing knowledge for building permit digitalization. *Advanced Engineering Informatics*, 59. <https://doi.org/10.1016/j.aei.2023.102312>
- Firdaus, R., Nurbaiti, Halim, A., & Mubarak, Z. (2023). Penyelesaian Konflik Pendirian Rumah Ibadah: Studi Kasus Konflik Gereja Methodist Kota Jambi. *Jurnal Ilmiah Ilmu Ushuluddin*, 22(1), 17–30. <https://doi.org/10.18592/jiiu.v22i1.9416>
- Fischer, M., & Morhman, K. (2021). Multicultural integration in Germany: Race, religion, and the Mesut Özil Controversy. *Journal of International and Intercultural Communication*, 14(3), 202–220. <https://doi.org/10.1080/17513057.2020.1782453>
- Hasan, H. (2023, February 1). *Kondisi Kebebasan Beragama/Berkeyakinan (KBB) 2022*. [https://www.askara.co/read/2023/02/01/33725/kondisi-kebebasan-beragam-berkeyakinan-\(kbb\)-2022](https://www.askara.co/read/2023/02/01/33725/kondisi-kebebasan-beragam-berkeyakinan-(kbb)-2022)
- Janah, T. N., & Baroroh, U. E. (2021). Pluralism in the Fiqh Sosial's Perspective. *Santri: Jurnal Pesantren Dan Fiqh Sosial*, 2(1), 17–34. <https://doi.org/10.35878/santri.v2i1.277>
- Jellin, & Suwondo, S. (2019). Aspek Hukum Pendirian Tempat Ibadah Gereja Dikaitkan Dengan Undang-Undang No. 28 Tahun 2002 Tentang Bangunan Gedung (Studi Dinas Perizinan Kota Cirebon). *Hukum Responsif*, 10(2). 10.33603/responsif.v10i2.5062
- Kementerian Agama. (2024, July 18). *Indeks Kerukunan 2025-2029 Ditargetkan Capai 78 Poin, Ini Langkah Kemenag*. <https://kemenag.go.id/nasional/indeks-kerukunan-2025-2029-ditargetkan-capai-78-poin-ini-langkah-kemenag-V5Rxb>
- Listari, I. D. (2023). Pancasila dan Agama. *Jurnal Etika Demokrasi*, 8(3), 334–350.
- Maggara, T. S., & Frinaldi, A. (2023). Dampak Perubahan Kebijakan Izin Mendirikan Bangunan (IMB) Menjadi Persetujuan Bangunan Gedung (PBG) di Kabupaten Padang Pariaman. *AHKAM: Jurnal Hukum Islam Dan Humaniora*, 2(4), 895–900. 10.58578/ahkam.v2i4.2419
- Marzuki, P. M. (2014). *Teori dan Metodologi Hukum (Edisi Revisi)* (Revision). Kencana.
- Mustafa, M. S. (2019). Merawat Kerukunan Umat Beragama Berbasis Kearifan Lokal di Manokwari Papua Barat. *Al Qalam*, 25(2), 271–284. <https://doi.org/10.31969/alq.v25i2.755>

- Nifutu, E. M. (2023). Analisis Wilayah Sebaran Umat Gereja Katedral Beatae Mariae Virginis Kota Bogor terhadap Kapasitas Daya Tampung Menggunakan Sistem Informasi Geografis. *Jurnal Online Mahasiswa (JOM) Bidang Teknik Geodesi*, 1(1).
- Nurahmani, A., & Sihombing, P. (2022). Kajian Kebijakan Pembatasan Pengalihan Hak Atas Tanah di Ibu Kota Nusantara. *Majalah Hukum Nasional*, 52(1), 27–46. <https://doi.org/10.33331/mhn.v52i1.181>
- Popelier, P. (2021). *Dynamic Federalism: A New Theory for Cohesion and Regional Autonomy*. Routledge.
- Pratama, G., & Lewiandy, L. (2024). Analisis Yuridis Perbandingan Izin Mendirikan Bangunan dan Persetujuan Bangunan Gedung dari Perspektif Undang-Undang Cipta Kerja. *Jurnal Ilmu Hukum, Humaniora, Dan Politik*, 4(3), 363–370. <https://doi.org/10.38035/jihhp.v4i3.1900>
- Purbolaksono, A. (2023). *Indonesia 2023: Evaluasi Peraturan Bersama Menteri Agama dan Menteri Dalam Negeri Nomor 9 dan 8 Tahun 2006 Guna Menjaga Kerukunan Umat Beragama*. The Indonesian Institute Center For Public Policy Research.
- Rafid Sugandi, Faras Puji Azizah, Budi Darmawan, & Diah Arvionita. (2024). Sejarah Peradaban Islam: Menguak Keberadaan Minoritas Muslim Jerman. *Toleransi: Media Ilmiah Komunikasi Umat Beragama*, 16(1), 56–70.
- Razak, F., Dungga, W. A., & Mandjo, J. T. (2022). Settlement of Land Use Rights Disputes of PT Lebuni Plantations and Shareholders through Non-Litigation Channels. *Dambil Law Journal*, 2(2), 96–111.
- Rohalia, R. D., & Meilani, N. L. (2023). Implementasi Kebijakan Persetujuan Bangunan Gedung (PBG) di Kota Bukittinggi. *Jurnal Pendidikan Tambusai*, 7(1), 4518–4525. <https://jptam.org/index.php/jptam/article/view/5949>
- Sanjaya, D. (2024). Kolaborasi Dalam Penerapan Persetujuan Bangunan Gedung (PBG) Menuju Pembangunan Berkelanjutan Dan Menciptakan Iklim Investasi Yang Lebih Baik. *Argopuro: Administration, Government, and Public Relation Journal*, 1(2), 9–17. <https://journal.myrepublikcorp.com/index.php/argopuro/article/view/69>
- Schmitz, T. (2021, June 4). *Freedom of Religion and Tolerance in a Pluralistic Society—The Example of Germany*. Science Talk, Yogyakarta. <https://www.thomas-schmitz-yogyakarta.id/>
- Setiawan, N. (2015, Oktober). Belum Kantongi IMB, Pembangunan Masjid di Manokwari Ditolak Warga. *Kompas*. <https://regional.kompas.com/read/2015/10/29/15475291/Belum.Kantongi.IMB.Pembangunan.Masjid.di.Manokwari.Ditolak.Warga>
- Shaleh, A. I., & Wisnaeni, F. (2019). Hubungan Agama dan Negara Menurut Pancasila dan Undang-undang Dasar Negara Republik Indonesia Tahun 1945. *Jurnal Pembangunan Hukum Indonesia*, 1(2), 237–249. <https://doi.org/10.14710/jphi.v1i2.237-249>

- Soekanto, S., & Mamudji, S. (2010). *Penulisan Hukum Normatif: Suatu Tinjauan Singkat*. Rajawali Pers.
- Suganda, R. (2022). Metode Pendekatan Yuridis Dalam Memahami Sistem Penyelesaian Sengketa Ekonomi Syariah. *Jurnal Ekonomi Islam*, 8(3), 2859–2866. <http://dx.doi.org/10.29040/jiei.v8i3.6485>
- Sulistiyo, B., Mashdurohatun, A., & Wahyuningsih, S. E. (2023). Legal Reconstruction of the Requirement for the Establishment of the House of Worship Based on Justice Values. *Scholars International Journal of Law, Crime, and Justice*, 6(1), 27–34. <http://dx.doi.org/10.36348/sijlcj.2023.v06i01.005>
- Suryawati, N., & Syaputri, M. D. (2022). Intoleransi dalam Pembangunan Rumah Ibadah berdasarkan Hak Konsitusional Warga Negara. *Jurnal Pembangunan Hukum Indonesia*, 4(3), 433–466. <https://doi.org/10.14710/jphi.v4i3.433-446>
- Yasin, N. (2021). Implementasi kebijakan pemenuhan hak beragama penyandang disabilitas oleh negara perspektif maqashid syariah. *De Jure: Jurnal Hukum dan Syari'ah*, 13(2), 170-183. <https://doi.org/10.18860/j-fsh.v13i2.14462>