



Guaranteeing the Protection of The Right to Freedom of Thought, Religion and Belief According to Legal Principles and Good Governance

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ABSTRACT This article explores the guarantee and implementation of the right to freedom of thought, religion, and belief in Indonesia, a right that is recognized as fundamental and non-derogable under international human rights law, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), as well as national constitutional and statutory frameworks. Despite these formal guarantees, numerous challenges persist in the practical realization of this right, particularly for religious minorities, indigenous belief communities, and individuals who do not adhere to state-recognized religions. This study applies a doctrinal legal research method to analyze relevant legal provisions, governance practices, and policy impacts. It highlights the inconsistencies between legal commitments and actual practices—such as the use of blasphemy laws and restrictive regulations on places of worship—that contribute to discrimination and exclusion. The article also assesses the role of good governance principles—including transparency, accountability, responsiveness, and the rule of law—in supporting or undermining the protection of religious freedom. Drawing from comparative examples in Albania, Canada, and Nepal, the article proposes policy and legal reforms necessary to align Indonesia's governance with its human rights obligations. It concludes that meaningful protection of religious freedom in Indonesia requires not only legal reform, but a broader commitment to inclusive governance, institutional accountability, and public education on pluralism and human rights. Keywords: <i>Freedom of Thought, Good Governance, Human Rights</i>			

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INTRODUCTION

The right to freedom of thought, religion, and belief is a fundamental and non-derogable human right, protected under international instruments such as the UDHR and ICCPR, and guaranteed in Indonesia's Constitution and national human rights laws. This right includes both the internal freedom to believe (*forum internum*) and the external freedom to manifest beliefs (*forum externum*). While the internal aspect is absolute, the external may be limited under strict conditions.

Despite legal guarantees, the practical implementation of this right in Indonesia faces serious challenges. Laws such as the Blasphemy Law (UU No. 1/PNPS/1965) and the 2006 Joint Ministerial Decree on houses of worship have been used to suppress

minority beliefs, restrict freedom of expression, and institutionalize religious conformity. Many communities face discrimination, legal exclusion, and even violence due to their religious identity or beliefs.

These issues are not only legal but also governance-related. Principles of good governance—such as transparency, accountability, responsiveness, and the rule of law—are often weak in protecting religious minorities. Law enforcement tends to be inconsistent, and violations are rarely redressed. The lack of state neutrality and institutional bias further exacerbates discrimination.

This article explores how legal principles and good governance should work together to ensure the protection of religious freedom. It also draws on international examples, including Canada, Albania, and Nepal, which offer best practices in maintaining religious pluralism and state neutrality.

Indonesia must adopt a more inclusive, rights-based approach to policy and governance. Legal reform, institutional strengthening, and public education are critical to achieving meaningful protection of religious freedom. Ensuring this right is not only a legal duty but a democratic imperative for a diverse nation like Indonesia.

RESEARCH METHOD

This study employs a doctrinal legal research method to analyze the legal principles and governance frameworks related to the protection of the right to freedom of thought, religion, and belief in Indonesia. Primary legal sources include national laws, constitutional provisions, and international human rights treaties ratified by Indonesia, particularly the ICCPR. Secondary sources consist of academic literature, legal commentaries, and case studies. The research is normative and analytical, focusing on identifying gaps in legal protections, evaluating policy impacts, and drawing comparative insights from other countries to formulate recommendations for improved governance and legal reform in Indonesia.

RESULT AND DISCUSSION

Legal Foundations and Challenges in Indonesia

The right to freedom of thought, religion, and belief is constitutionally protected in Indonesia under Articles 28E and 29 of the 1945 Constitution. This right is reinforced by Law No. 39 of 1999 on Human Rights and Law No. 12 of 2005 which ratified the ICCPR. Internationally, Article 18 of the ICCPR guarantees both the internal freedom to adopt a belief (*forum internum*) and the external freedom to manifest it (*forum externum*). While *forum internum* is absolute, *forum externum* can be restricted only under strict legal conditions.

However, in practice, Indonesia faces persistent challenges in ensuring this right. Several regulations contradict international standards. The Blasphemy Law (Law No. 1/PNPS/1965) criminalizes deviant interpretations of religion and is often used against minority beliefs. The Joint Ministerial Decree No. 9 and 8 of 2006 sets excessive administrative requirements for establishing places of worship, creating obstacles

particularly for religious minorities. These policies reflect a tendency toward majoritarian control and fail to protect minority rights.

Good Governance Principles and Implementation Gaps

The principles of good governance—transparency, accountability, responsiveness, efficiency, and the rule of law—are vital for upholding human rights. In the context of religious freedom, transparency ensures that laws and decisions affecting religious groups are made openly and fairly. Accountability requires that state actors are held responsible for actions or inactions that result in violations. Responsiveness involves timely state intervention in cases of religious conflict or discrimination.

However, implementation of these principles in Indonesia is often weak. Law enforcement tends to be selective, with local officials sometimes complicit in violations against religious minorities. Transparency is undermined by vague legal provisions and unclear procedures. For instance, the requirement for community approval to build a place of worship can lead to discrimination disguised as bureaucratic process. Moreover, the lack of sanctions for state inaction contributes to impunity.

Comparative Practices: Lessons from Albania, Canada, and Nepal

Examining best practices from other countries provides valuable insights. Albania, despite being a Muslim-majority country, upholds secularism and religious neutrality. Its Constitution explicitly protects religious freedom, and the state maintains cooperative relations with diverse faith groups through legal agreements. Albania's approach shows that a Muslim-majority country can maintain pluralism without privileging one religion.

Canada offers another strong model. Through its Charter of Rights and Freedoms, Canada guarantees freedom of religion and belief and implements these guarantees through human rights commissions and inclusive policies. The Canadian model emphasizes state neutrality and proactive accommodation of religious diversity. For example, religious symbols are allowed in public institutions unless they infringe on others' rights. Court rulings uphold individual religious practices while ensuring collective equality.

Nepal, though more challenged, has made progress since becoming a secular republic. Its 2015 Constitution guarantees religious freedom but includes provisions prohibiting proselytism and conversion through coercion. While such provisions have been controversial, Nepal has promoted interfaith dialogue and tolerance through education and civil society initiatives. The coexistence of multiple faiths and festivals celebrated across religious lines shows a culturally rooted commitment to pluralism.

These countries demonstrate that strong legal frameworks, inclusive governance, and active civil society involvement are key to protecting religious freedom. They also highlight the importance of educational and institutional mechanisms to cultivate tolerance.

CONCLUSION

Indonesia needs substantial reform to align its legal and governance frameworks with international human rights standards. First, the Blasphemy Law and the 2006 Joint Decree should be reviewed and amended to eliminate discriminatory provisions. Second, legal recognition must be extended to all belief systems, including indigenous religions and non-religious identities. This includes ensuring access to civil documentation without forced religious labeling. Third, good governance must be operationalized through independent oversight bodies, capacity-building for law enforcement, and improved public complaint mechanisms. Strengthening institutions such as Komnas HAM and Ombudsman RI with clear mandates and resources is essential. Fourth, public education must include human rights and religious tolerance, starting from school curricula to public service training. Grassroots initiatives, interfaith dialogues, and media campaigns can also promote a more inclusive culture. Finally, adopting international best practices requires political will. State neutrality in religious affairs should be institutionalized, and majoritarian pressures must be resisted. Indonesia's democratic commitment must translate into equal rights and protections for all, regardless of belief.

In conclusion, protecting the right to freedom of thought, religion, and belief in Indonesia demands not only legal reform but a holistic approach grounded in good governance. The experiences of other nations affirm that pluralism and religious freedom are not only compatible but mutually reinforcing in a democratic society.

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