



Advancing Gender Equality And Freedom of Religion or Belief (FORB): Opportunities and Challenges in Indonesian Context

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Introduction

- Studies show that religious freedom and gender equality are both considered to be fundamental rights, yet they are often thought of as contradicting each other.
- On the one hand, both principles enable members of marginalized groups to realize their rights, thus advancing pluralism and tolerance. On the other hand, religion has often been used as an instrument of gender inequality, advancing gender-discriminatory laws and practices.
- Limitation of religious freedom by regulation decreases gender equality, particularly when it targets a country's minority groups, but has the opposite effect when directed towards the majority religion.
- Religious discrimination against minorities is inversely related to gender equality. Thus, in nations where the rights and freedoms of minority religions are less respected, a lower score on the gender equality scale is observed, representing lower economic, social and political rights for women.

Laws and Regulations related to FoRB (Ambiguity?)

- **Indonesia's Constitution guarantees freedom of religion and beliefs (articles 28 E point 1, 28 I point 1, 29 point 2)** but a range of national and local laws undercut the constitutional safeguard and provide a cover for religious bullies.
- The primary legal enabler of abuse against religious minorities is **the Law No.1/PNPS/ 1965 on the Prevention of Religious Abuse and/or Defamation (Blasphemy Law)** which defines “state official religions” and criminalizes ‘deviant’ religious practices. The Blasphemy Law remains in place despite the fact that Indonesia ratified the International Covenant on Civil and Political Rights (ICCPR) in 2005.
- **Indonesia's highest Muslim Clerical Body (*Majelis Ulama Indonesia*)**, has also become increasingly active in identifying ‘deviant’ behavior and issuing fatwas against Ahmadiyah, Shi'ite, and other religious minorities. Those fatwa have been used by state apparatus to prosecute and discriminate against religious minorities.

- In 2006 a Joint Ministerial Decree No.8 and No.9 (Ministry of Religious Affairs and Ministry of Home Affairs) established **the Inter-religious Harmony Forum (FKUB)**, a council of religious leaders whose job was to facilitate the permit process for places of worship (90 users and 60 local inhabitants), but mounting evidence suggests that the Forum often hindered applications for Christian church permits.
- More provocatively, in 2008 the government announced a Joint Ministerial Decree (No. 3 KEP-033/A/JA/6/2006) restricting Ahmadiyah activities outside of Ahmadi communities.
- From 2009-2016, Komnas Perempuan recorded the enactment of at least 421 discriminatory bylaws under pretext of religion and morality in which 322 have a direct impact on the life of women and minority groups.
- From 322 discriminatory bylaws identified by Komnas Perempuan (2017)– 138 criminalize women, 30 regulate space and personal relationship, 100 force women to wear certain dress code (*jilbab*), 39 on curfews, and 15 place restrictions on women's mobility (to work), 54 restrict religious freedom and beliefs for religious minorities.

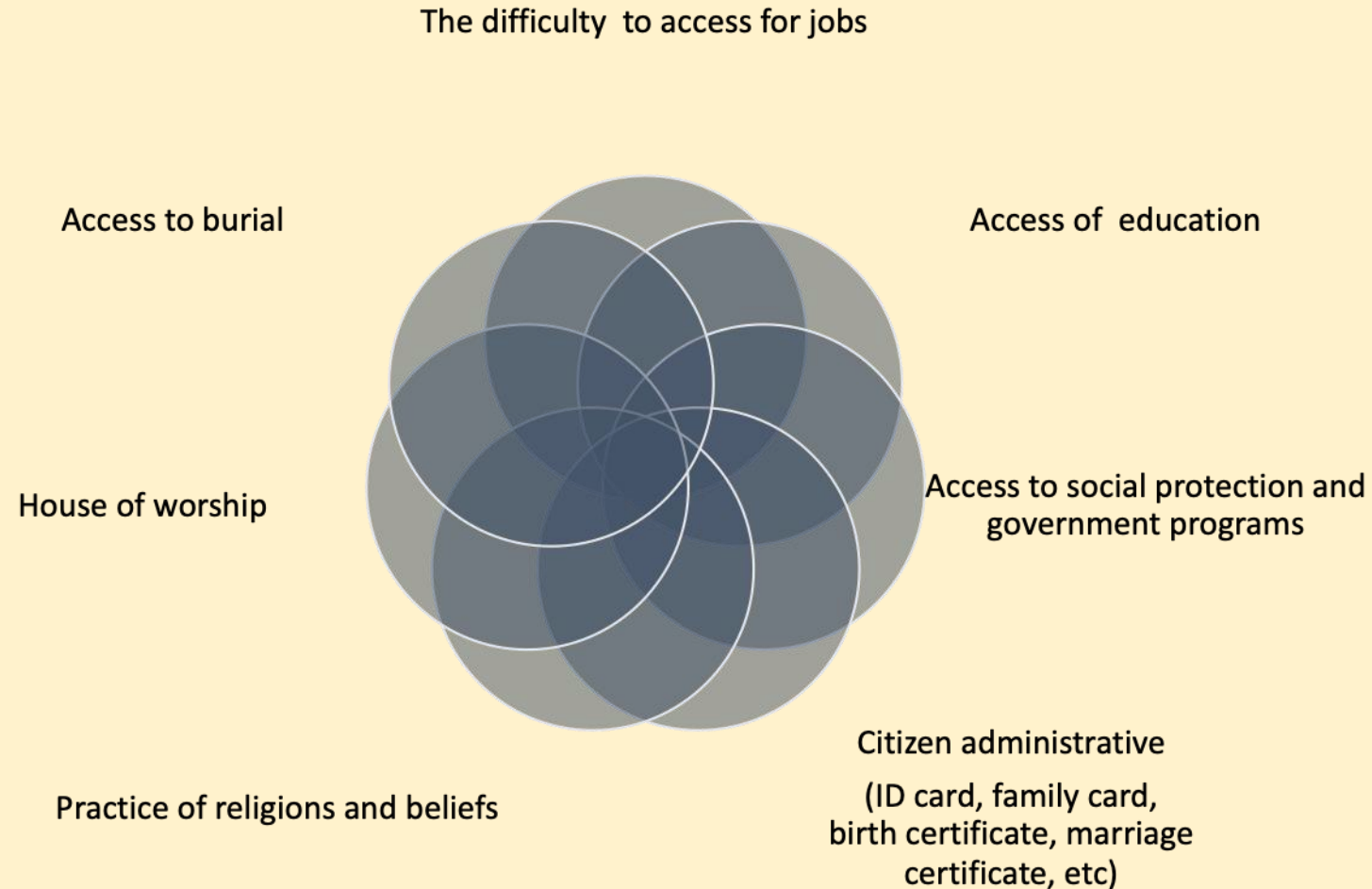
Major Trends Related to FORB

1. Religious blasphemy
2. The Right to build house of worship
3. The rights of minority religions, especially indigenous religions/native believers
4. Hate Speech
5. Religious Extremism/Violent Extremism

General Patterns about Discrimination and Violence Against Women (VAW) related to FORB

- Discrimination and violence against women are increasing when they become members of religious minorities. It becomes worse when the women are poor, live in rural and remote areas, young age, widows and elderly.
- Although both women and men have been vulnerable for physical attacks during intolerance cases, women experience specific discrimination and violence because of their place in society and within traditional gender roles, such as sexual harassment.
- Women and children experienced severe trauma and stress, the decline of their health status (miscarriages, menstruation disorders, etc); they lose their access to economic, health, education, and employment; target of sexual harassment; increase domestic violence; living as IDP's → violations of FORB will always impact on other rights (social, economic, culture, politics)

Findings of discrimination because of “religious citizenship”?



The Role of The State

- Institutionalization of discrimination and violence (law and practice) against religious minorities
- The State has been ignorant in carrying out the responsibility of the fulfillment of Human Rights and Constitutional Rights, as set forth in the 1945 Constitution of the Republic of Indonesia and does not prevent the occurrence of violent incidents and discrimination experienced by religious minorities.
- Impunity: the weak law enforcement against groups that perpetrate threats, violence, unlawful acts to religious minorities, can be regarded as a justification for such acts of violence.
- The lack of access to justice for women of minority groups resulted they have to seek self-protection and support independently, or from their own community, because the state ignore to give their effective remedies.

Opportunities

Good Practices in Policy Advocacy

- In 2017, the Constitutional Court granted the Judicial Review of Article 61 of Law Number 23 of 2006 and Article 64 of Law Number 24 of 2013 concerning Population Administration which required filling in the religion column on the Identity Card.
- This allows indigenous religions (*penghayat*) to include their beliefs in the religion column when making an ID card.
- It's a victory since women groups together with human right groups had advocated the issue for a long time.
- The rights of *penghayat* are finally recognized as other citizens.



Abolishing discriminatory bylaws on mandatory hijab/jilbab

- Komnas Perempuan has recorded (2022) there are at least 62 existing government regulations that require girls and women to wear the *jilbab*, Muslim apparel that covers the head, neck, and chest.
- The imposition of discriminatory regulations on clothing, and the widespread bullying to wear a jilbab that causes women and girls psychological distress.
- Girls who don't comply have been forced to leave school or have withdrawn under pressure, while female civil servants have lost their jobs or resigned to escape constant demands to conform.
- On February 2021 joint ministerial decree that bans abusive dress codes for female students and teachers in Indonesia's state schools
- Unfortunately, on May 2021 the decree was cancelled by Supreme Court because of judicial review proposed by Lembaga Adat Alam Minangkabau, which argued that the decree violates against local wisdom and cultures.



The Law on Anti Sexual Violence (Law No.12 Year 2022: Persistency of Women Groups

- On 12 April, 2022, Indonesia's parliament passed a long-awaited bill to tackle sexual violence after six years of deliberation
- This law criminalizes 9 crimes, namely; non-physical sexual harassment, physical sexual harassment, forced contraception, forced sterilization, forced marriage, sexual torture, sexual exploitation, sexual slavery, and electronic-based sexual violence.
- The crucial role of female ulama (KUPI) in this policy advocacy; publications, social media campaign, public hearing in the House, etc.
- Resistance from religious conservative groups: AILA, PKS. They said it should regulate extramarital sex and urging a ban on relations involving what it described as "deviant" sexual orientation.



Strategies of Women Groups to Advance Gender and FoRB

- Translating human rights values into local languages as well as religious languages → the role of female ulama (KUPI) in producing religious interpretations from gender justice views
- Documenting the practice of discrimination and violence against women of minority groups → publishing regular reports on FoRB
- Engaging with religious leaders to hear the voice of the oppressed → “Memecah Kebisuan” (Breaking the Silence)
- Challenging discriminatory by-laws (ex; Qanun Jinayah in Aceh, Judicial reviews)
- Providing a support and safe space → “Forum Berbagi” (shared forum)
- Encouraging government to give effective remedies to the victims of religious intolerance → working with the local governments
- Using international forum to push the state’s responsibility to protect religious (UPR, CEDAW report, Minority Forum, SEAFORB, etc)
- Religious literacy → “Srikandi Lintas Iman” (Interfaith Warrior)
- Fostering women’s leadership both in interreligious harmony forum (FKUB) and religious institutions (NU, Muhammadiyah, Fatwa Commission of Indonesian Ulema Council, etc.)

Debates on the Limitations of Religious Freedom

- ICCPR article 18: 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.
- Indonesia Constitution, article 28J said that one's freedom can be restricted by: moral considerations, religious values, security, and public order within a democratic society.
- Some contentious gender issues; clothing related (niqab, headscarf), vaccine/immunization, FGM, child marriage, contraception, abortion, domestic violence.

Warning!!!: The language of FoRB has been used by religious conservative groups to voice their gender insensitive cause!

Looking Forward to The Discussions....

