

The Repressive Nature of Local Regulations on Tolerance in Indonesia

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Abstract. This article investigates the nature of local regulations on tolerance in Indonesia. Focusing on considerations that shape the primary rationales of such local regulations, this article explains the repressive approach that local governments in Indonesia have persistently used in responding to religious intolerant incidents. Applying a conceptual framework concerning the social conflict prevention-management and human rights approach and drawing on a content analysis of 12 local regulations, the consideration of preventing and managing social conflicts has dominated the primary rationales of local regulations on tolerance in Indonesia. In contrast, human rights considerations, particularly those focused on protecting freedom of religion and belief to promote greater religious diversity, remain marginal across the regulatory corpus. Instead of serving as a tool for promoting individual freedoms and diversity, existing local regulations on tolerance function as instruments that suppress diversity, working on the assumption that religious differences inherently pose a threat of social friction. Drawing on a critical understanding that pro-tolerance regulations may be used as repressive tools to suppress religious diversity, we argue for human rights-based approach, as well as individual freedoms, to promote religious diversity and as a reference point for developing tolerance regulations in Indonesia.

Keywords: Freedom of Religion and Belief, Local Regulations, Repressive, Tolerance

Abstrak. Artikel ini mengkaji karakteristik peraturan daerah tentang toleransi di Indonesia. Dengan berfokus pada pertimbangan yang membentuk rasionalitas utama peraturan daerah tersebut, artikel ini menjelaskan pendekatan represif yang secara konsisten digunakan pemerintah daerah di Indonesia dalam menanggapi insiden intoleransi agama. Dengan menerapkan kerangka konseptual mengenai pencegahan dan pengelolaan konflik sosial serta pendekatan hak asasi manusia, dan berdasarkan analisis isi dari 12 peraturan daerah, pertimbangan pencegahan dan pengelolaan konflik sosial telah mendominasi rasionalitas utama peraturan daerah tentang toleransi di Indonesia. Sebaliknya, pertimbangan hak asasi manusia, khususnya yang berfokus pada perlindungan kebebasan beragama dan berkeyakinan untuk mendorong keragaman agama yang lebih besar, tetap marginal di seluruh korpus peraturan. Alih-alih berfungsi sebagai alat untuk mempromosikan kebebasan dan keragaman individu, peraturan daerah tentang toleransi yang ada berfungsi sebagai instrumen yang menekan keragaman, dengan asumsi bahwa perbedaan agama secara inheren menimbulkan ancaman gesekan sosial. Berdasarkan pemahaman kritis bahwa peraturan pro-toleransi dapat digunakan sebagai alat represif untuk menekan keragaman agama, penulis mendasarkan argumennya pada pendekatan berbasis hak asasi manusia, serta kebebasan individu, untuk mempromosikan keragaman agama dan sebagai titik acuan untuk mengembangkan peraturan toleransi di Indonesia.

Kata Kunci: Kebebasan Beragama dan Berkeyakinan, Peraturan Lokal, Represif, Toleransi

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INTRODUCTION

Religious intolerance persisted throughout the years in Indonesia.¹ According to a report published by the Setara Institute in 2025, there were 260 incidents and 402 violations of freedom of religion and belief (FoRB) during 2024, a figure that represents a significant increase from the previous year.² To address such issues, local governments in several regions promoted tolerance by establishing local regulations on tolerance,³ which are expected to foster better conditions for diversity and FoRB.⁴ Unfortunately, in regions that have already issued tolerance regulations, several cases show that religious intolerance incidents are treated with a repressive and security-based approach, where the freedom of minority groups tends to be violated. Such a practice should not arise, given that the government is obligated to protect the right to FoRB for every individual, which is explicitly guaranteed in Article 28E of the 1945 Constitution of Indonesia.

Existing scholarship on the state of FoRB in Indonesia has examined the phenomenon of religious intolerance from a range of perspectives. Studies focusing on governmental performance, such as those conducted by Lindsey and Butt, reveal a paradoxical pattern of governance, particularly in the post-Suharto era. On the one hand, various democratic systems guaranteeing FoRB have been established; on the other, a series of regulations suppressing FoRB for minority groups has simultaneously been enacted.⁵ Scholars examining the legalisation of religion-based regulations, including those at the local level, have demonstrated that such regulations are fundamentally political and pragmatic in nature, as Ropi argues, and that they have, as Rohidin et al. find, exacerbated hatred and discrimination on the

¹ Setara Institute, “Tren Peristiwa Dan Tindakan,” 2024, <https://bebasberagama.id/>; Freedom House, “Indonesia Freedom in the World,” 2024, <https://freedomhouse.org/country/indonesia/freedom-world/2024>.

² Setara Institute, “SETARA Institute: Kondisi Kebebasan Beragama Berkeyakinan 2024,” May 23, 2025, <https://kbb.id/2025/05/23/indeks-kota-toleran-2024-setara-institute/>.

³ Melissa Crouch, “Legislating Inter-Religious Harmony Attempts at Reform in Indonesia,” in *Religion, Law and Intolerance in Indonesia*, ed. Tim Lindsey and Helen Pausacker (London: Routledge, 2016), 243–44.

⁴ Wahid Foundation, *Laporan Tabunan Kemerdekaan Beragama/Berkeyakinan (KBB) 2022* (Jakarta: Wahid Foundation, 2023), 21.

⁵ Tim Lindsey and Simon Butt, “State Power to Restrict Religious Freedom An Overview of the Legal Framework,” in *Religion, Law and Intolerance in Indonesia*, ed. Tim Lindsey and Helen Pausacker (London and New York: Routledge, 2016), 19–41.

grounds of differing religious values.⁶ Other studies have directed attention to the central government's performance in maintaining social harmony. Bagir et al. argue that FoRB guarantees in Indonesia are framed around an emphasis on social harmony enforced by the regulation of religious practice, rather than the protection of individual freedoms.⁷ Consequently, as Crouch's study demonstrates,⁸ Indonesia's FoRB legal framework has proven inadequate in protecting minority groups, such as the Ahmadiyya congregation, from discrimination in religious practice and from violence perpetrated by dominant religious organisations and local governments.

Despite their differing analytical perspectives, the aforementioned studies converge on the critical conclusion that the religion-based regulatory infrastructure and the governance practices of both central and local governments in Indonesia are counterproductive to FoRB. These studies highlight a broad spectrum of religious and religion-related regulations in Indonesia, including the 1945 Constitution of Indonesia, Law No. 1/PNPS/1965, and sharia-based local regulations. However, no literature has been identified that specifically examines the nature of locally enacted tolerance regulations, particularly in explaining why repressive measures persist in regions where such regulations exist.

By focusing on the primary rationales that drive the establishment of local regulations on tolerance in Indonesia, this article critically analyses the nature of these regulations by unearthing the dominant considerations underlying them. This analysis shows that the primary rationale for local regulations on tolerance is the legal regime for social conflict resolution and prevention, rather than the human rights one. Applying a conceptual framework concerning the social conflict prevention-management and human rights approach, we argue that instead of protecting individual freedom to be different and promoting greater diversity, this regulatory structure has made those

⁶ Robert W. Hefner, "Religion, Law and Intolerance in Indonesia. Edited by Tim Lindsey and Helen Pausacker. London: Routledge, 2016.," *Journal of Law and Religion* 33, no. 1 (April 2018): 177, doi:<https://doi.org/10.1017/jlr.2018.19>; Rohidin Rohidin et al., "Exclusive Policy in Guaranteeing Freedom of Religion and Belief: A Study on the Existence of Sharia-Based Local Regulations in Indonesia and Its Problems," *Cogent Social Sciences* 9, no. 1 (2023): 1–18, doi:[10.1080/23311886.2023.2202939](https://doi.org/10.1080/23311886.2023.2202939).

⁷ Zainal Abidin Bagir et al., "Limitations to Freedom of Religion or Belief in Indonesia: Norms and Practices," *Religion and Human Rights* 15, nos. 1–2 (2020): 39–56, doi:[10.1163/18710328-BJA10003](https://doi.org/10.1163/18710328-BJA10003).

⁸ Crouch, "Legislating Inter-Religious Harmony Attempts at Reform in Indonesia," 244.

regulations serve as instruments that suppress diversity, working on the assumption that religious differences inherently pose a threat to social friction.

This article is structured in three sections. The first contains a mapping of considerations in the primary rationales for the establishment of 12 local regulations on tolerance in Indonesia. We present seven considerations that have shaped the primary rationales, emphasising their distribution across those regulations. The second shows that human rights considerations are marginalised in existing regulations. In contrast, this section shows that considerations of social conflict resolution and prevention dominate the structure of the primary rationales of existing local regulations. The analysis in the second section sets the foundation for the argument developed in the third section, that local regulations on tolerance in Indonesia serve to suppress diversity.

METHODOLOGY

This desk-based qualitative study uses a comparative approach to law, comparing the primary rationales of the local regulations covered in this study.⁹ Data for this research includes provincial and regency-level regulations on tolerance, relevant literature, and selected cases used as illustrative evidence. A “local regulation on tolerance” within this article refers to any local regulation whose title explicitly mentions the term “tolerance.” By May 2025, we collected a total of 12 provincial and regency-level regulations through the public-accessible website of the Legal Documentation and Information System (JDIH) of Badan Pemeriksa Keuangan Republik Indonesia. These 12 regulations constitute the entire population of local regulations on tolerance identifiable through this database. At the provincial level, these include East Java Province Local Regulation No. 8/2018, Maluku Province Local Regulation No. 3/2022, and South Kalimantan Province Local Regulation No. 12/2022. At the regency level, they consist of Gresik Regency Local Regulation No.16/2020, Kulon Progo Regency Local Regulation No.13/2022, Garut Regency Local Regulation No.14/2022,

⁹ Mark Van Hoecke, “Methodology of Comparative Legal Research,” *Law and Method*, no. 12 (2015): 1–35, <https://doi.org/10.5553/REM/.000010>.

Sumenep Regency Local Regulation No.1/2023, Mojokerto Municipality Local Regulation No.3/2021, Banjarmasin Municipality Local Regulation No.4/2023, Salatiga Municipality Local Regulation No.10/2024, Singkawang Mayor Regulation No.129/2021, and Bekasi Mayor Regulation No. 27/2022. The literature used comprises peer-reviewed journals and books that discuss the protection and promotion of human rights and religious tolerance in Indonesian law.

Two prominent intolerance-related legal cases are cited to support the arguments in this article. These cases include the rejection of the construction of *the Gereja Kristen Jawa Wetan* (East Java Christian Church, GKJW) in Malang Regency, East Java Province, in early 2023, and the sealing of a place of worship belonging to the Ahmadiyah community in Garut Regency, West Java, in July 2024. We selected these cases deliberately from the provinces and/or cities/regencies whose regulations are the subject of this study. We considered cases that received significant public attention, ensuring they were documented and verifiable. More importantly, the cases chosen also reflect the trends we identified in our analysis of the covered local regulations. For this study, these cases shall not be treated as generalisable data, but rather as illustrative evidence to substantiate the normative findings.

In implementing this study, we used a content analysis approach with inductive category development to analyse the Considerations section in the Preamble and General Explanation of 12 local regulations on tolerance.¹⁰ The units of analysis were limited to statements reflecting the considerations for the establishment of the regulations. The analysis was carried out through repeated readings of all local regulatory documents, during which statements with substantive similarities were inductively categorised into thematic groups. This process generated seven categories of considerations. For categories appearing in more than one regulation, we carried out sub-categorisation to identify variations in how these considerations were narrated, thereby producing a typology of narratives within each category. Finally, to

¹⁰ Philipp Mayring, *Qualitative Content Analysis: Theoretical Foundation, Basic Procedures and Software Solution* (Klagenfurt, 2014), <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-395173>; Philipp Mayring, "Qualitative Content Analysis," *Forum: Qualitative Social Research* 1, no. 2 (June 2000): 1–10, <http://nbnresolving.de/urn:nbn:de:0114-fqs0002204>.

ensure reliability, we conducted an intra-coder agreement test to assess the stability of the findings.¹¹

RESULT AND DISCUSSION

Mapping The Primary Rationales of The Local Regulations

Generally, laws and regulations are established with a primary rationale.¹² It reflects the true consciousness of law-making, including the contested interests, when lawmakers deliberate over the articles' construction.¹³ The Indonesian Law on the Establishment of Laws and Regulations (Law No. 12/2011 as amended by Law No. 13/2022) affirms the central position of a primary rationale of a law and regulation.

According to the Law, every law and regulation in Indonesia should include a Considerations section in its Preamble. Beginning with the term "Considering", this section explains "the primary rationale underlying the enactment of the legislation".¹⁴ To emphasise the significance of this section, it is also made clear that a single consideration regarding "the need to enact the regulation" is inappropriate, as the content of this section.¹⁵ The Law also governs that every law and local regulation must include an Explanation section, which is further divided into a "General Explanation" and an "Explanation of Each Article".¹⁶ Functioning as an authoritative interpretation of each law and regulation, the "General Explanation" section explains a regulation's background, intent, and purpose.¹⁷

The requirement to explain the primary rationale applies to every local regulation. For this reason, it is almost impossible to find a local regulation that contains no explanation of the considerations and reasons for its establishment, including those

¹¹ Ibid.

¹² Bernd Grzeszick, "Rationality Requirements on Parliamentary Legislation Under a Democratic Rule of Law," in *Rational Lawmaking under Review. Legisprudence According to the German Federal Constitutional Court*, ed. Klaus Meßerschmidt and A Daniel Oliever-Lalana (Switzerland: Springer, 2016), 62–65.

¹³ Jan Sieckmann, "Rational Lawmaking, Proportionality and Balancing," in *Rational Lawmaking Under Review: Legisprudence According to the German Federal Constitutional Court*, ed. Klaus Meßerschmidt and A Daniel Oliever-Lalana (Switzerland: Springer Cham, 2016), 349.

¹⁴ Simon Butt and Tim Lindsey, *Indonesian Law* (Oxford: Oxford University Press, 2018).

¹⁵ Appendix II Law No. 13/2022, para. 20.

¹⁶ Appendix II Law No. 13/2022, para. 174-175

¹⁷ Simon Butt and Tim Lindsey, *Loc. Cit.*

related to tolerance. This condition is also supported by Indonesia's decentralisation, which grants local governments the authority to manage their affairs in accordance with the principle of autonomy.¹⁸

Based on formal and explicit statements in the "Considering" and "General Explanation" sections, we identified seven considerations that shape the primary rationales for the local regulations on tolerance in Indonesia, as shown in Table 1 below.

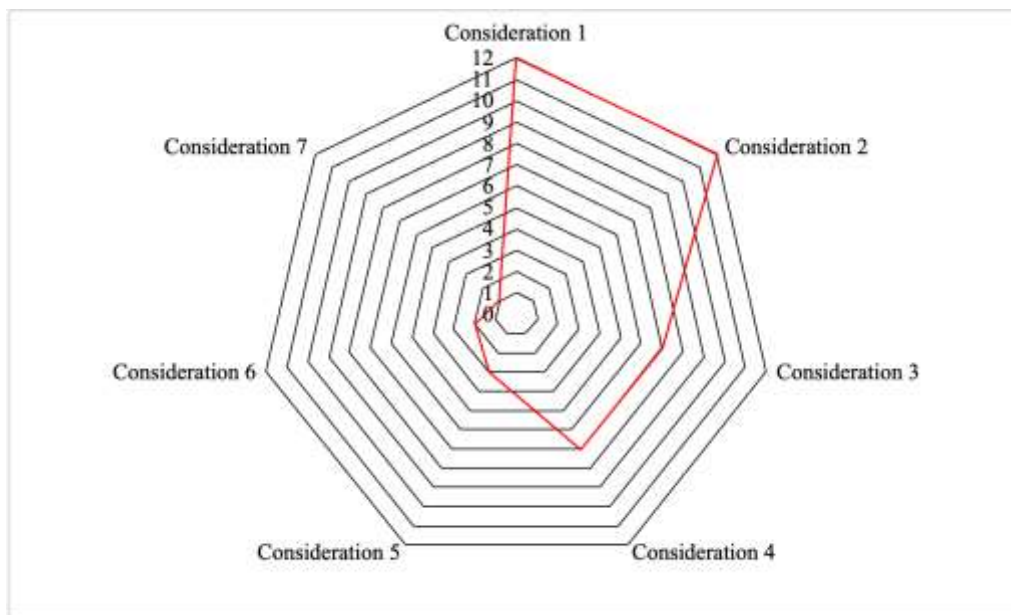
Table 1. Considerations that shape the primary rationales

| | |
|-----------------|--|
| Consideration 1 | The obligation of local governments to protect the community |
| Consideration 2 | Prevention and management of social conflicts |
| Consideration 3 | Prevention of radicalism, extremism, terrorism, and other ideologies that contradict Pancasila (Indonesia's official foundational philosophical theory) and the Constitution |
| Consideration 4 | Peace, harmony, orderliness, and tolerance within society |
| Consideration 5 | The marginalisation of traditional social institutions in regions due to digital technology and information advances |
| Consideration 6 | The diversity of society that should be maintained |
| Consideration 7 | Commitment to a more inclusive Indonesia |

Source: prepared by the authors

The distribution of those seven considerations in the 12 regulations is as follows:

¹⁸ Article 18, 18A, and 18B of the UUD NRI 1945.

Figure 1. The distribution of seven considerations in the 12 local regulations

Source: prepared by the authors

Based on Figure 1, Considerations 1 and 2 were found in 100% regulations: 12 out of 12. Considerations 3 and 4 were found in 58.33% regulations: 7 out of 12. Consideration 3 is contained in the local regulations of South Kalimantan Province, Maluku Province, East Java Province, Banjarmasin Municipality, Garut Regency, Gresik Regency, and Sumenep Regency. Consideration 4 is contained in the local regulations of South Kalimantan Province, Banjarmasin Municipality, Mojokerto Municipality, Salatiga Municipality, Kulon Progo Regency, Garut Regency, and Sumenep Regency.

Consideration 5 was found in 25% regulations: 3 out of 12, namely the local regulations of Maluku Province, East Java Province, and Sumenep Regency. Consideration 6 was found in 16.67% regulations: 2 out of 12, namely the local regulations of Garut and Sumenep Regency. Consideration 7 was found in 8.33% regulations: 1 out of 12, namely the local regulation of Banjarmasin Municipality.

Considerations 1 and 2 are the most dominant. They are included in all regulations. Consideration 1 relates to the obligation of local governments to protect the community. This consideration is based on the Fourth Paragraph of the 1945 Constitution of Indonesia, which states that the government is established to protect

the people of Indonesia. The Maluku Province Local Regulation, for example, states that:

“The provincial government is [...] responsible for protecting the entire people of Indonesia and all of its citizens, as stated in the Preamble to the Indonesian Constitution”.¹⁹

The incorporation of these constitutional provisions is also accompanied by a reference to the Indonesian Law on Local Government, which obliges local governments to protect the community. The Maluku Province Local Regulation, for example, states that:

“The implementation of tolerance in social life is one of the attempts of implementing mandatory government affairs as stated in Article 12 (1) (e) [Indonesian Law No. 23 of 2014 on Local Government], which states that local governments are obliged to protect the community”.²⁰

Consideration 2 relates to the prevention and management of social conflicts. The use of this consideration is further divided into three different emphases. First, it focuses on the potential for societal conflict arising from heterogeneity. For example, the Gresik Regency Local Regulation states that “the diversity of society in Gresik Regency, which consists of various ethnic groups, races, religions, social and economic groups, has the potential to raise social conflicts that can endanger public peace and order”.²¹ A similar consideration is also found in the Bekasi Mayor Regulation, which notes that “the city of Bekasi, with its heterogeneous society consisting of various ethnicities, races, religions, and socio-economic groups, is potentially subject to social conflicts that could threaten public peace and order”.²²

Second, it focuses on the misinterpretation and abuse of fundamental freedom by individuals or groups for personal interests. This consideration is traceable, for example, in the East Java Province Local Regulation:

“Fundamental freedom has been misinterpreted and misused by individuals or groups of people for their interests according to their interpretations [...] This

¹⁹ Consideration (a) the Maluku Province Local Regulation No.3/2022.

²⁰ Explanation of the Maluku Province Local Regulation No.3/2022, general section, para.6.

²¹ Considerations (b) of the Gresik Regency Local Regulation No.16/2020.

²² Considerations (b) of the Bekasi Mayor Regulation No. 27/2022.

situation [...] is eroding social cohesion and undermining tolerance within society".²³

Third, in regions where large-scale development occurs, it appeared to emphasise the potential for conflict arising from or following the development. The South Kalimantan Province Local Regulation states that "development in South Kalimantan will bring [...] social inequality, poverty, and/or economic injustice. These disparities will cause social jealousy [...] that is related to intolerant practices." The Banjarmasin Municipality Local Regulation also states that "cases and potential incidents of intolerance are increasing every year, particularly with South Kalimantan's preparation to become the supporting region for the [New] State Capital".²⁴ A similar point is also found in the Kulon Progo Regency Local Regulation:

"The rapid development in various sectors or areas in Kulon Progo Regency [...] has had an impact on the community, one of which is the potential for friction among communities based on ethnicity, class, race, religion, and beliefs [...] which could potentially lead to social friction and other conflicts".²⁵

Consideration 3 is moderately applied in the local regulations. It is included in seven out of 12 regulations. This consideration concerns the prevention of radicalism, extremism, terrorism, and other ideologies that contradict Pancasila and the Constitution. The pattern of use of this consideration is consistent across all regulations, with the departure point being incidents of terrorism or attacks in the region. In the Maluku Province Local Regulation, for example, it is stated that "terrorism incidents that have occurred in various locations have awakened us to the importance of preventing the spread of radicalism, extremism, and terrorism".²⁶

The use of Consideration 4 is as moderate as that of Consideration 3. It is contained in seven out of 12 regulations. This consideration relates to the community's peaceful, harmonious, orderly, and tolerant conditions. The pattern of use of this consideration appears to be almost the same in every regulation, but with different articulations. The South Kalimantan Province Local Regulation, for example, states that:

²³ general section, para.1 of the East Java Province Local Regulation No.8/2018.

²⁴ general section, para.1 of the Banjarmasin Municipality Local Regulation No.4/2023.

²⁵ general section, para.2 of the Kulon Progo Regency Local Regulation No.13/2022.

²⁶ general section, para.3 of the the Maluku Province Local Regulation No.3/2022.

“Through tolerance, it is expected that peace, order, and active participation in religious activities following each individual’s religion and beliefs will be achieved, [and] a harmonious, orderly, and peaceful way of life will be promoted”.²⁷

This consideration is also found in the Mojokerto Municipality Local Regulation, which puts it in terms of “tolerant, peaceful, orderly, secure, and convenient living conditions in a social neighborhood in Mojokerto City is a manifestation of harmony and balance in society, nation, and state.”²⁸

Considerations 5, 6, and 7 are used in a minor way in the local regulations. They are found in only one to three of the 12 regulations. Consideration 5 relates to the marginalisation of traditional social institutions in the region due to advances in digital technology and information. In the three local regulations that feature this consideration, its use pattern is consistent. In the Sumenep Regency Local Regulation, for example, it is stated that “the development of information technology has brought a digital society [...] Social institutions that have long been rooted in the Sumenep have been marginalised.” Unfortunately, there is no further explanation regarding what social institutions have been marginalised and how this relates to tolerance. However, it is explained that implementing tolerance is intended to rehabilitate and revitalise social institutions in the region to help address the emerging issues. The Sumenep Regency Local Regulation further states that “to that end, rehabilitating and revitalising social institutions to re-engage their role in addressing contemporary issues is part of the policy agenda of the Sumenep Regency Government.”²⁹

Consideration 6 relates to the social diversity that must be maintained. The tone of its use is consistent in the two local regulations that contain this consideration. There is clear recognition of the diversity of society, based on ethnicity, race, religion, group, and socio-economic differences, that must be maintained in community life and governance. The Garut Regency Local Regulation states that “the diversity of the people of Garut Regency, consisting of ethnicity/group, religion/belief, and socio-economic status, must be maintained in harmony”. A similar consideration is also

²⁷ general section, para.7 of the South Kalimantan Province Local Regulation No.12/2022.

²⁸ general section, para.2 of the Mojokerto Municipality Local Regulation No.3/2021.

²⁹ general section, para.2 of the Sumenep Regency Local Regulation No.1/2023.

noted in the Sumenep Regency Local Regulation, which states that “the community in Sumenep Regency consists of various ethnicities, races, religions, groups, and socio-economic status, so these differences must be managed properly through the implementation of the principle of tolerance”.³⁰

Consideration 7 is the least used in the local regulations. It is included in only one of 12 regulations. The Banjarmasin Municipality Local Regulation states that the regulation “also affirms Banjarmasin’s compliance with the Banjarmasin protocol following the consensus reached during the celebration of Human Rights Day in Banjarmasin City”. The protocol in question refers directly to the Banjarmasin Declaration for a More Healthful and Inclusive Indonesia (Banjarmasin Inclusive Declaration). This declaration is one of the outcomes of the Human Rights Festival held on December 17-18, 2020, in the city. In general, it contains the commitment of the central and local governments to protect and fulfil all human rights. Among the commitments are to optimally improve services, protection, and the fulfilment of the human rights of all citizens; to follow human rights principles in local government administration; to realise human rights cities; and to achieve human rights cities by ensuring meaningful participation from vulnerable groups and minorities in society.

Human Rights: A Marginal Consideration

Drawing on the seven considerations above, formal and explicit statements on human rights are found in two considerations: those related to peace, harmony, orderliness, and tolerance within society, and those related to the commitment to realising a more inclusive Indonesia. Among the seven regulations wherein the first consideration is included, formal and explicit statements on human rights were found in only one regulation: the Mojokerto Municipality Local Regulation. The latter was also found in one regulation: the Banjarmasin Municipality Local Regulation. Thus, considerations on human rights are present in 16.67% regulations, or 2 out of 12.

The Mojokerto Municipality Local Regulation explicitly states that “public order and community peace are manifestations of human rights in the orderly life of society, the

³⁰ Considerations (b) of the Sumenep Regency Local Regulation No.1/2023.

nation, and the state.” This consideration was put forward immediately after those on preventing social conflict, violence, and intolerant practices, as well as on the local government’s obligation to protect the community. Policymakers first emphasised the rampant misinterpretation and abuse of freedom by certain individuals or groups within the region, which resulted in social conflict and violence within the community. Then, in efforts to prevent and address these conditions, the provisions of the Local Government Law concerning the local government’s obligation to protect the community were directly referenced to support the drafting of the Mojokerto Municipality Local Regulation. Implementing this regulation is expected to ensure public order and community peace, both of which are part of human rights.

The Indonesian Law on Human Rights guarantees the right to public order and community peace by recognising “the right to peace, security, happiness, as well as physical and spiritual well-being”,³¹ “the right to feel safe and secure, and to be protected against threats that would force them to, or prevent them from, taking a certain action”,³² and “the right to live in a peaceful [...] society and nation”.³³ In international human rights law, such rights are generally recognised as the right to security.³⁴

The right to security refers to everyone’s right to be free from all forms of violence, whether committed by the state, private entities, or individuals.³⁵ This interpretation is strongly embedded, for example, in the Constitution of South Africa. In Europe and Canada, a similar interpretation is elaborated in the construction of the right to be free from torture and cruel, inhuman, and degrading treatment.³⁶ In this interpretation, the enjoyment of this right operates within the context of an individual’s vulnerability to threats from others.³⁷ Under these circumstances, fundamental freedom and fear of

³¹ Article 9 (2) Law No. 12/2011.

³² Article 30 Law No. 13/2022.

³³ Article 35 Law No. 13/2022.

³⁴ Article 3 Universal Declaration of Human Rights; Article 9 (1) International Covenant on Civil and Political Rights.

³⁵ Liora Lazarus, “Insecurity and Human Rights,” in *Human Rights and 21st Century Challenges: Poverty, Conflict, and the Environment*, ed. Dapo Akande et al. (Oxford: Oxford Academic, 2020); Danielle Anne Pamplona, “Article 3 – The Right to Life, Liberty and Security,” in *The Universal Declaration of Human Rights. A Commentary*, ed. Humberto Cantú Rivera (Leiden-Boston: Brill/Nijhoff, 2024); Rhonda Powell, “The Interest Protected by the Right to Security of Peron,” in *Rights as Security: The Theoretical Basis of Security of Person* (Oxford: Oxford Academic, 2019).

³⁶ Powell, “The Interest Protected by the Right to Security of Peron,” 41.

³⁷ N.P. Adams, “Bare Statistical Evidence and the Right to Security,” *Journal of Ethics and Social Philosophy* 24, no. 2 (March 2023): 101, doi:<https://doi.org/10.26556/jesp.v24i2.1650>.

threats coexist.³⁸ Adams argues that awareness of this mutual vulnerability allows us to suppress freedom to avoid infringing on others.³⁹ Controlling freedom depletes threats and fears, allowing everyone to live peacefully and enjoy their right to security to the fullest.⁴⁰ Thus, threats and fears are the central issues in advancing the realisation of the right to security.

The Banjarmasin Municipality Local Regulation explicitly references the Declaration of Inclusive Banjarmasin as one of the foundational considerations for its establishment and implementation. It affirms that a local regulation on the implementation of tolerance is necessary to strengthen the Municipality's compliance with the Declaration of Inclusive Banjarmasin. This consideration was raised immediately after the policymakers acknowledged Banjarmasin's increase in intolerance cases. These concerns, according to the policymakers, are exacerbated by the lack of regulations to handle intolerance cases based on ethnicity, religion, race, and intergroup relations within the local community.

The Declaration of Inclusive Banjarmasin sets out several commitments, including improving government services, ensuring protection, and fulfilling human rights by encouraging an inclusive community life. Using the term "inclusive" in the context of government performance requires recognising, as well as liberating and respecting, the diversity of every individual.⁴¹ Local governments must understand that differences based on ethnicity and religion are a human right, given that everyone has the freedom of thought and the right to express themselves according to their conscience.

The 1945 Constitution of Indonesia has laid a strong foundation for recognising and respecting diversity. The firm and clear constitutional recognition of everyone's right to "freedom of belief, expression of thoughts and opinion, according to their

³⁸ Anna Magdalena Kosińska and Barbara Mikołajczyk, "Does the Right to Migration Security Already Exist? Considerations from the Perspective of the EU's Legal System," *European Journal of Migration and Law* 21, no. 1 (2019): 83–116.

³⁹ Adams, "Bare Statistical Evidence and the Right to Security," 102.

⁴⁰ Johan Vorland Wibye, "Reviving the Distinction between Positive and Negative Human Rights," *Rasio Juris* 35, no. 4 (December 2022): 363–82, doi:<https://doi.org/10.1111/raju.12363>.

⁴¹ Ingolf U. Dalferth, *We. Humanity, Community, and the Right to Be Different* (Tübingen: Mohr Siebeck, 2024), 54.

conscience”,⁴² “freedom [...] of expression”,⁴³ and every person’s right to be free from “discriminatory treatment on any basis whatsoever”⁴⁴ enables diversity to flourish. Rather than restricting freedom, the Indonesian Law on Human Rights, under the Section on the Right to Personal Freedom, ensures equal opportunities for all individuals to embrace diversity.

Regarding this issue, the Universal Declaration of Human Rights states in various sections that “human beings shall enjoy freedom of speech and belief”,⁴⁵ “everyone has the right to freedom of thought, conscience, and religion”,⁴⁶ and “everyone has the right to freedom of opinion and expression”.⁴⁷ The International Covenant on Civil and Political Rights affirms these rights, stating that “everyone shall have the right to freedom of thought, conscience and religion”,⁴⁸ and “everyone shall have the right to freedom of expression”.⁴⁹ The Declaration on Race and Racial Prejudice also acknowledges that “all individuals and groups have the right to be different, to consider themselves as different, and to be regarded as such”.⁵⁰ The same terms are also in the Declaration on the Rights of Indigenous Peoples.

Unlike the guarantee of the right to security, which seeks to address threats and fears by restricting freedom, a commitment to creating an inclusive society encourages individuals to exercise their freedom to the fullest. In an inclusive society, freedom will allow boundless diversity. Rather than being oppressed, individuals are encouraged to embrace and express their differences, knowing that others respect their freedom as part of diversity.

The presence of human rights considerations in only 2 of 12 regulations indicates that human rights are marginalised in the implementation of tolerance at the local level. These considerations are implemented with different intents in places where they are

⁴² Article 28E (2) UUD NRI 1945.

⁴³ Article 28E (3) UUD NRI 1945.

⁴⁴ Article 28I (2) UUD NRI 1945.

⁴⁵ Preamble, para.2 Universal Declaration of Human Rights.

⁴⁶ Article 18 Universal Declaration of Human Rights.

⁴⁷ Article 19 Universal Declaration of Human Rights.

⁴⁸ Article 18 International Covenant on Civil and Political Rights.

⁴⁹ Article 19 International Covenant on Civil and Political Rights.

⁵⁰ Article 1 (2) Declaration on Race and Racial Prejudice.

present. While the Mojokerto Municipality Local Regulation uses human rights considerations to restrict freedom, the Banjarmasin Municipality Local Regulation uses them to strengthen freedom and further promote diversity. Conversely, considerations on the local government's obligation to protect the community and the prevention and management of social conflicts are the strongest underlying principles in the primary rationales for Indonesia's local regulations on tolerance.

Considerations on the obligation of local governments to protect the community can be framed as a human rights-based approach within existing local regulations, where one of the state's obligations is to protect human rights. However, in Indonesia, legislative practice demonstrates that incorporating the concept of protection from the fourth paragraph of the 1945 Constitution is merely a formality.⁵¹ Therefore, the presence of this consideration in the local regulations bears no merit. Consequently, the prevention and management of social conflict have become the primary rationale for local regulations on tolerance in Indonesia.

Local Regulations on Tolerance: An Instrument that Suppresses Diversity in Indonesia

The local regulations on tolerance in Indonesia address religious diversity in two contradictory ways. On one hand, tolerance is used to prevent and manage social conflicts arising from religious diversity. On the other hand, tolerance is also used to protect religious diversity as part of human rights, with only one regulation emphasising this consideration. Thus, religious diversity can be seen as having either a positive or negative impact on society.

These two legal regimes, social conflict prevention and management, and human rights, differ in principle, nature, and implementation. While the former is based on the assumption that there is always a potential conflict between individuals and

⁵¹ Suparman Marzuki, Despan Heryansyah, and Sahid Hadi, "Neglecting Laws and Rights of Local Communities: A Human Rights-Based Approach Analysis of the Development of Indonesia's New Capital City," *Bramijaya Law Journal* 11, no. 2 (2024): 215–41, doi:<https://doi.org/10.21776/ub.blj.2024.011>; Sahid Hadi, Heronimus Heron, and Vania Lutfi Safira Erlangga, *Langkah Awal Yang Suram: Performa Hak Asasi Manusia Dalam Peraturan Perundang-Undangan Pemerintahan Prabowo-Gibran Pada 100 Hari Pertama* (Yogyakarta, January 2025).

groups over differences in values,⁵² the latter promotes differences based on human dignity and the recognition of equal, universal, inalienable, and indivisible rights.⁵³ The fundamental nature of the social conflict management and prevention approach is conflict prevention, conflict resolution, and post-conflict recovery, as recognised in the Indonesian Law on Social Conflict Management. The law on human rights, on the other hand, encompasses the state's obligation to protect the right to be different and the individual's responsibility to respect that right.⁵⁴

This difference explains why social conflict resolution efforts generally justify mobilising the state's repressive power to de-escalate conflicts. Conversely, the human rights regime encourages the state to respect and protect human rights in all efforts.⁵⁵ Thus, the legal regime of human rights generally exists to protect religious diversity based on individual freedom. In contrast, the legal regime for handling social conflicts exists to minimise the threats posed by religious diversity arising from the exercise of freedom.

There is evidence that the perspective of social conflict resolution is prioritised over protecting the FoRB. In the case of the rejection of the construction of the *Gereja Kristen Jawa Wetan/GKJW* (East Java Christian Church) in Malang Regency, East Java Province, for example, the Government, along with the *Forum Kerukunan Umat Beragama* (Religious Harmony Forum), mediated the discussion between GKJW and the religious organisation opposing the church's construction in January 2023. The mediation concluded that the church's construction should be postponed, and the issue was considered resolved to "uphold religious harmony in the Village."⁵⁶

The government mediators failed to adhere to the human rights standards regarding FoRB. Such a resolution was possible because the East Java Province Local Regulation

⁵² Lewis A Coser, "Social Conflict and the Theory of Social Change," *Source: The British Journal of Sociology* 8, no. 3 (1957): 198.

⁵³ Alejandro Anaya Muñoz, "International Human Rights Regimes," *Sur - International Journal on Human Rights* 14, no. 25 (2017): 173.

⁵⁴ Rhona K.M. Smith et al., *Hukum Hak Asasi Manusia*, ed. Knut D. Asplund, Suparman Marzuki, and Eko Riyadi (Yogyakarta: Pusham UII, 2008), 53.

⁵⁵ *Ibid.*

⁵⁶ Muhammad Aminudin, "Hasil Mediasi Penolakan Gereja Di Malang, Pembangunan Tetap Dihentikan," *Detik.Com*, March 8, 2023, <https://www.detik.com/jatim/berita/d-6608346/hasil-mediasi-penolakan-gereja-di-malang-pembangunan-tetap-dihentikan>.

manages diversity using a social conflict prevention and management approach. This practice demonstrates how a dominant security-based approach is used in maintaining harmony, thereby repressing FoRB.

The Indonesian Ahmadiyya Congregation also experienced a similar security reinforcement through repression of diversity in early July 2024 in Garut Regency, West Java. Following a hearing between a community organisation and the Municipal Police Unit (*Satpol PP*) of Garut Regency, which opposed the establishment of an Ahmadiyya mosque, the Garut Regency government sealed the mosque. It forcibly closed down the place of worship of the Ahmadiyya Congregation. In a press release, an official team formed by the Government of Garut Regency to monitor religious beliefs emphasised that the sealing of the mosque was carried out to “maintain religious harmony and [...] a conducive environment to prevent horizontal conflict in the community.”⁵⁷

This practice demonstrates that religious diversity has been managed through a perspective focused on resolving and preventing social conflict, rather than on the right to FoRB. Similar to how the GKJW rejection case was handled, the Garut Regency Local Regulation allows the local government to take repressive actions. The primary rationale of the regulation in Garut prioritises prevention and management of social conflicts, as well as prevention of radicalism, extremism, terrorism, and other ideologies that clash with Pancasila and the 1945 Constitution of Indonesia.

Local governments should be responsible for protecting human rights within their regions rather than acting as agents in restricting individuals’ freedom of religion. Moreover, the Indonesian Law on Human Rights states that “the government is obliged and responsible to respect and uphold human rights as stipulated in this law, other laws and regulations, and international law on human rights recognised by the Republic of Indonesia.” However, these cases demonstrate that local governments are

⁵⁷ Tim Koordinasi Pengawasan Aliran Kepercayaan dan Aliran Keagamaan, “Siaran Pers Tim Koordinasi Pengawasan Aliran Kepercayaan Dan Aliran Keagamaan Dalam Masyarakat (PAKEM) Kabupaten Garut Nomor: 01/PAKEM-KAB.GARUT/07/2024,” 2024, <https://kbb.id/wp-content/uploads/2024/07/SIARAN-PERS.pdf>.

more likely to heed the opinions of local-level officials and religious figures than to protect individuals' FoRB.

In a democratic country, every citizen has the right to worship and assemble, including members of religious minorities. As Crouch put it: "the government must reaffirm its commitment to the rule of law and uphold a form of democracy that affords minorities equal rights".⁵⁸ However, in the case of *the Gereja Kristen Jawa Wetan* (East Java Christian Church, GKJW) in Malang Regency and the Ahmadiyah community in Garut Regency, the government uses social harmony as a reason to prohibit followers of both groups from exercising their right to FoRB.

The resolution of cases involving the rejection of the establishment of a GKJW in Malang and the prohibition of Ahmadiyah congregational activities not only reveals the repressive nature of local regulations, but also exposes the presence of actors within the local government who instrumentalise religious issues for political purposes, namely, to sustain majoritarian support among the dominant religious community in the region,⁵⁹ as well as a prevailing paradigm amongst local government apparatuses that remain insufficiently committed to the protection of human rights,⁶⁰ the influence of local economic constellations,⁶¹ and the adherence of local government officials to traditional values that are frequently shaped, in an exclusionary manner, by the dominant religious majority within the region.⁶² All of which constitute formidable challenges to resolving religious-based conflicts.

This security approach to resolving cases of religious intolerance is prioritised because the government has a narrow understanding of public order issues. Public order is often viewed as the opposite of disorder, prompting responses from the police and the military. This perspective arises because the word "safety" is translated as

⁵⁸ Melissa Crouch, "Criminal (in)Justice in Indonesia: The Cikeusik Trials," *Alternative Law Journal* 37, no. 1 (March 2012): 54, doi:<https://doi.org/10.1177/1037969X1203700115>.

⁵⁹ Hurriyah, "Dynamics of Shrinking Religious Freedom in Post-Reformasi Indonesia," *Journal of Southeast Asian Human Rights* 4, no. 2 (2020): 335–56, doi:<https://doi.org/10.19184/jseahr.v4i2.19546>.

⁶⁰ Rohidin et al., "Exclusive Policy in Guaranteeing Freedom of Religion and Belief: A Study on the Existence of Sharia-Based Local Regulations in Indonesia and Its Problems."

⁶¹ Michael Buehler and Dani Muhtada, "Democratization and the Diffusion of Shari'a Law: Comparative Insights from Indonesia," *South East Asia Research* 24, no. 2 (2016): 261–82, doi:<https://doi.org/10.1177/0967828X16649311>.

⁶² Kikue Hamayotsu, "The Limits of Civil Society in Democratic Indonesia: Media Freedom and Religious Intolerance," *Journal of Contemporary Asia* 43, no. 4 (2013): 658–77, doi:<https://doi.org/10.1080/00472336.2013.780471>.

“security” in Indonesian legal practice, not as people’s safety.⁶³ The implication extends beyond the context of the translation but also supports implementing a security approach to matters considered public order violations. This semantic issue may further lead to inconsistencies in implementation across regions.⁶⁴ Consequently, the semantic conflation of “safety” with “security” is susceptible to manipulation in ways that ultimately fail to guarantee the human rights and freedoms of individuals.⁶⁵

Another term used to address security issues in religious life is “harmony.” Suaedy explains that the interpretation of “harmony” has allowed the government to intervene and restrict minority groups from practicing religious beliefs outside the mainstream, as such differences are believed to incite anger and violence, thus disrupting harmony.⁶⁶ The term “harmony” is found in all local regulations on tolerance. It is often paired with phrases like religious harmony and social harmony. To maintain harmony between religious communities and within society, FoRB is repressed to avoid provoking anger.

The concept of “harmony” has a long history of building interreligious relations in Indonesia. This term was popularised by the former Minister of Religious Affairs, Alamsyah Ratu Prawiranegara, during the New Order era. He introduced the trilogy of harmony: between religions, among religious groups, and between religious communities and the government.⁶⁷ This concept of harmony paved the way for government intervention in interreligious relations, which led to depletions in FoRB. Although religious affairs are the responsibility of the central government, local governments possess broad authority to restrict religious expressions through local regulations.⁶⁸ This includes regulations on tolerance. As previously discussed, the

⁶³ Bagir et al., “Limitations to Freedom of Religion or Belief in Indonesia: Norms and Practices.”

⁶⁴ Zhang Luoyi, “Legal Semantics and Linguistic Features of the Universal Declaration of Human Rights: An Empirical Research and Text Analysis,” *Science of Law Journal* 3, no. 6 (2024): 93–102, doi:<http://dx.doi.org/10.23977/law.2024.030614>.

⁶⁵ Luis Carlos Arbeláez Villegas, “The Contradictory Relationship between Safety and Human Rights,” *Revista Criminalidad* 65, no. 2 (2023): 145–58, doi:<https://doi.org/10.47741/17943108.484>.

⁶⁶ Ahmad Suaedy, “The Inter-Religious Harmony (KUB) Bill vs Guaranteeing Freedom of Religion and Belief in Indonesia Public Debate,” in *Religion, Law and Intolerance in Indonesia*, ed. Tim Lindsey and Helen Pausacker (London and New York: Routledge, 2016), 159.

⁶⁷ Ismatu Ropi, *Religion and Regulation in Indonesia, Religion and Regulation in Indonesia* (Springer Singapore, 2017), 146, doi:[10.1007/978-981-10-2827-4](https://doi.org/10.1007/978-981-10-2827-4).

⁶⁸ Lindsey and Butt, “State Power to Restrict Religious Freedom An Overview of the Legal Framework,” 26.

practices of local governments in Garut and Malang reinforce this restriction. When security and harmony are the highest priority, the right to FoRB becomes repressed.

CONCLUSION

This article found that considerations for managing and preventing social conflicts were prominently featured in the primary rationales of Indonesia's local regulations on tolerance. Considerations regarding human rights, particularly those aimed at protecting individual freedom to promote greater diversity, occupy a peripheral position within the regulatory framework. Rather than protecting individual freedom and facilitating religious diversity, cases of intolerance involving religious differences discussed earlier demonstrate how the existing regulatory structure encourages the local government –including state security apparatus– to deplete individual freedom to prevent social conflicts caused by religious diversity. Thus, we argue that the local regulations on tolerance in Indonesia are founded on awareness of potential conflicts between individuals and groups based on different values, so these regulations function more as instruments for suppressing social diversity rather than as means of protecting and promoting fundamental freedoms to advance diversity.

Nonetheless, the presence of local regulations could signal that some local governments are beginning to address intolerance in their regions. We recommend that local governments that have already enacted local regulations on tolerance adopt the following policy measures. First, to revise the primary rationales of tolerance-related local legislation by shifting from a security-based approach towards a human rights-based approach. Second, to employ a human rights-based approach with particular emphasis on FoRB, as well as individual freedom and diversity, as the theoretical basis for the formulation of local regulations on tolerance. Third, to enhance the capacity of local government apparatuses with respect to human rights principles across all areas of their work, including in the context of protection of FoRB and the upholding of individual freedoms and diversity. For future researchers, it is recommended to examine the primary rationales underpinning local regulations on tolerance whose titles do not explicitly employ the term “tolerance”; to investigate the

prevailing nature of the substantive body of local regulations related to tolerance; and to examine the correlation between tolerance-related regulations and the conduct of local government in enforcing religious tolerance at the local level.

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The authors declare that they have no competing interests or personal relationships that could have appeared to influence the work in this study.

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