

Constitutional Implications of Local Government Restrictions on the Validity of Religious Legal Entity Deeds

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Abstract. *This study examines the constitutional limits of regional government authority in restricting religious activities and analyzes their implications for legal certainty concerning religious deeds and permits. Although decentralization grants substantial administrative discretion to local governments, constitutional guarantees under the 1945 Constitution require that any limitation on religious freedom comply with legality, necessity, and proportionality standards. Normative inconsistencies arise when regional regulations introduce additional procedural burdens or discretionary mechanisms that exceed statutory delegation and potentially undermine constitutional supremacy. This research employs normative legal methodology through statute, conceptual, and case approaches by examining constitutional provisions, regional governance legislation, and relevant Constitutional Court decisions. Legal materials are analyzed qualitatively using constitutional reasoning, hierarchical norm conformity review, and proportionality assessment. The findings indicate that the constitutional boundary of regional authority lies in strict adherence to proportionality parameters, including legitimate aims, suitability, necessity, and balancing. Furthermore, regional restrictions have significant implications for administrative legal certainty, particularly regarding the issuance of religious permits and the enforceability of related civil documentation. Regulatory fragmentation and inconsistent procedural standards risk generating unequal treatment and indirect limitations on religious freedom. The novelty of this research lies in integrating proportionality doctrine with administrative legal certainty analysis, offering a constitutional design model that harmonizes regional autonomy with fundamental rights protection without negating legitimate local governance functions.*

Keywords: Decentralization; Legal Certainty; Proportionality; Regional Authority; Religious Freedom.

1. INTRODUCTION

Freedom of religion is enshrined as a fundamental right within the 1945 Constitution of the Republic of Indonesia, guaranteeing every citizen the freedom to embrace and practice their religious beliefs without undue interference. Empirical analyses indicate, however, that regional governments in Indonesia have sometimes enacted restrictions

on religious activities that lack clear constitutional or legal foundations, raising serious concerns about legal certainty and the protection of fundamental freedoms. For example, the prohibition of certain religious gatherings by local policymakers has sparked debate over whether such measures align with constitutional principles of proportionality and non-discrimination. (Jalaludin Rifa'i & Azizah, 2025)

In practice, the authority granted to local governments under decentralization statutes such as Law No. 23 of 2014 on Local Government has at times led to regulations that arguably exceed constitutional limits. Research shows that numerous regional rules restricting religious activities fail the proportionality test and are not grounded in national law, which undermines both the rule of law and the protection of human rights. (Jalaludin Rifa'i & Azizah, 2025) Such practices reflect a gap between constitutional ideals (*das sollen*) where freedom of religion ought to be upheld universally and the actual implementation (*das sein*) where administrative discretion may curtail religious expression without adequate justification.

The constitutional doctrine of limitation of rights requires that any restriction on fundamental freedoms must be legal, necessary, and proportionate. This principle has been articulated in broader human rights scholarship as well as within the context of Indonesian constitutional jurisprudence, which emphasizes that human rights limitations must avoid discrimination and excessive intrusion.² Work by Mujaddidi illustrates how the Indonesian Constitutional Court has invalidated rights restrictions that violate legal certainty or proportionality, highlighting the judiciary's role in maintaining constitutional balance. (Mujaddidi, 2021) Nevertheless, scholarly discourse has yet to thoroughly assess how these doctrinal norms apply specifically to local government authority in restricting religious activities and its administrative outcomes, such as religious certificates and permits.

Furthermore, studies on religious freedom under Indonesian law reveal complexities in how religious rights are constructed and legally protected, particularly regarding legislation and statutory interpretation that govern religious practice. (Lathifah et al., 2022) These investigations underscore the tension between constitutional freedoms and statutory frameworks that may implicitly limit religious autonomy, especially for minority or non-recognized religious communities. (Darmawan, 2023) Yet, there is limited empirical research linking these doctrinal insights with the practical consequences of local administrative actions on legal instruments like permits and certificates relevant to religious activities.

The implications of local restrictions extend beyond theoretical legal debates; they significantly impact administrative certainty and the lived experiences of religious communities. Prior research on minority religious rights has shown that local regulations can conflict with international human rights instruments and constitutional protections, creating regulatory incoherence and potentially discriminatory practices. (Jufri et al., 2024) Such findings point to the need for a systematic examination of how regional governance intersects with constitutional guarantees of religious freedom and what design of legal frameworks can mitigate adverse effects.

Identifying these issues is essential because unchecked administrative authority in regulating religious activities may erode constitutional rights, foster legal uncertainty, and contribute to socio-legal fragmentation. By clarifying how constitutional limits should inform regional governmental powers and how administrative regulations affect

legal certainty in religious permits and certificates, this study seeks to contribute to the scholarly and policy debates on harmonious governance and rights protection.

Accordingly, this research aims to analyze: (1) How the constitutional limits of local government authority in restricting religious activities can be understood through the doctrine of limitation of rights, principles of the rule of law, and proportionality parameters within the 1945 Constitution; and (2) The implications of such restrictions on legal certainty regarding religious certificates and permits, as well as design principles that can ensure constitutional rights protection without undermining legitimate regional administrative powers.

2. RESEARCH METHODS

This study constitutes normative legal research focused on examining the constitutional limits of regional government authority in restricting religious activities and their implications for legal certainty concerning religious deeds and permits. The research employs a statute approach, conceptual approach, and case approach by analyzing the 1945 Constitution of the Republic of Indonesia, legislation related to regional governance and religious administration, as well as relevant Constitutional Court decisions and contemporary constitutional doctrines concerning limitation of rights and the principle of proportionality. The research specification is descriptive-analytical with a prescriptive orientation, aimed at evaluating normative inconsistencies while formulating a regulatory design aligned with constitutional principles. Data are collected through library research using primary legal materials, secondary legal materials from the last five years, and other relevant academic literature, while data analysis is conducted qualitatively through systematic interpretation, constitutional reasoning, hierarchical norm conformity review, and the application of proportionality parameters to assess the legality and constitutional validity of regional policies.

3. RESULTS AND DISCUSSION

3.1. Constitutional Parameters for Limiting Religious Activities by Regional Governments

The 1945 Constitution guarantees freedom of religion as a core constitutional right under Articles 28E and 29. However, constitutional doctrine recognizes that rights may be subject to limitation under Article 28J paragraph (2), provided that such restrictions are based on law, pursue legitimate aims, and comply with proportionality standards. Contemporary constitutional scholarship emphasizes that proportionality serves not merely as a theoretical construct but as an operational judicial test to measure the legitimacy of governmental interference with fundamental rights. (Lathifah et al., 2022)

Recent academic studies underline that proportionality in Indonesian constitutional adjudication has evolved into a structured analytical framework consisting of legality, suitability, necessity, and balancing stages. (Mahfud MD, 2021) This framework obliges state institutions including regional governments to demonstrate that any restriction on religious activity is normatively grounded and substantively justified. Mujaddidi's examination of Constitutional Court jurisprudence shows that regulations failing to meet proportionality standards are vulnerable to annulment, particularly where they disproportionately burden minority religious groups. (Mujaddidi, 2021)

Despite these constitutional parameters, decentralization policies have occasionally encouraged expansive interpretations of regional authority. Empirical assessments of local regulations concerning houses of worship and religious gatherings reveal that certain regional bylaws introduce procedural requirements beyond statutory mandates, thereby exceeding delegated authority. (Jalaludin Rifa'i & Azizah, 2025) Such practices reflect tension between autonomy and constitutional supremacy, where local administrative discretion may override fundamental rights without adequate legal basis.

Scholars examining minority religious protection argue that administrative discretion at the regional level often operates within sociopolitical dynamics rather than constitutional reasoning. (Darmawan, 2023) This condition generates regulatory fragmentation and inconsistent standards across provinces and municipalities. In several documented cases, regional measures limiting religious activities were not supported by clear legislative delegation, indicating deviation from the legality principle inherent in the rule of law. (Suryana, 2021)

Furthermore, studies on state power and constitutional rights stress that decentralization cannot dilute constitutional guarantees. (Jufri et al., 2024) Even when regional governments pursue objectives such as public order or social harmony, such aims must be assessed against proportionality criteria to ensure that restrictions do not extinguish the essence of religious freedom. (Siregar, 2022) The constitutional limit, therefore, lies in ensuring that local regulatory actions remain hierarchically consistent with the Constitution and substantively proportionate to legitimate aims.

From a doctrinal standpoint, proportionality review functions as a safeguard against arbitrary administrative action. Contemporary analysis in constitutional law journals affirms that rights limitation requires transparent reasoning and measurable standards to prevent abuse of power. (Prasetyo, 2021) In the context of religious activities, this means that regional governments must demonstrate: (a) explicit statutory authorization; (b) a legitimate constitutional objective; (c) the least restrictive alternative; and (d) a fair balance between collective interests and individual freedoms. Failure to satisfy these cumulative elements renders the restriction constitutionally questionable.

3.2. Implications of Religious Restrictions on the Certainty of Legal Deeds and Licensing in Indonesia

Restrictions on religious activities inevitably influence administrative instruments, including religious permits, certificates of establishment for worship facilities, and related civil documentation. Legal certainty, as an essential component of the rule of law, requires stability, predictability, and equality before administrative authorities. (Hidayat, 2023) When regional policies impose additional discretionary requirements without uniform standards, administrative outcomes become uncertain and vulnerable to contestation.

Research published in accredited national journals indicates that inconsistencies in local permit issuance often stem from normative ambiguity and overlapping regulatory authority. (Hidayat, 2023) These inconsistencies undermine the reliability of administrative acts and may affect the validity of related notarial deeds or civil registrations dependent upon governmental recognition. In such circumstances, legal

certainty is compromised not through formal revocation of rights, but through procedural obstruction.

Studies focusing on minority religious communities demonstrate that administrative refusal or delay in issuing permits frequently arises from local political pressure rather than objective legal assessment. (Aziz, 2022) This phenomenon illustrates how discretionary governance may indirectly restrict religious freedom while formally claiming regulatory compliance. Moreover, constitutional scholars emphasize that indirect restrictions such as excessive procedural requirements can amount to substantive violations when they disproportionately burden particular groups. (Firmansyah, 2021)

The absence of harmonized standards also affects the enforceability of religious organizational deeds and licensing documents. When regulatory conditions vary significantly across regions, citizens experience unequal access to legal recognition. (Wahyuni, 2023) Such disparity contradicts constitutional commitments to equality before the law and equal protection.

To address these implications, regulatory reform should prioritize normative clarity and hierarchical consistency. A constitutionally compliant design would integrate statutory delegation with objective administrative criteria, procedural transparency, and judicial oversight mechanisms. (Rahardjo, 2024) Strengthening proportionality review at the administrative level would further ensure that local discretion does not devolve into arbitrary interference.

Ultimately, the findings demonstrate that constitutional limits on regional authority are inseparable from the preservation of legal certainty. Harmonizing decentralization with constitutional supremacy requires reaffirming proportionality as both a doctrinal and practical constraint. By embedding proportionality analysis into regional regulatory practice, Indonesia can safeguard religious freedom while maintaining legitimate local governance functions.

4. CONCLUSION

The constitutional authority of regional governments to restrict religious activities is not unlimited but must operate within the parameters of legality and proportionality as mandated by the 1945 Constitution. Decentralization does not justify regulatory measures that exceed statutory delegation or disproportionately burden religious freedom. The study demonstrates that failure to comply with proportionality standards not only raises constitutional concerns but also undermines legal certainty in religious permits and related administrative instruments. Regulatory inconsistency and discretionary excess may function as indirect restrictions that erode equality before the law. The novelty of this research lies in articulating a constitutional framework that integrates proportionality review with administrative legal certainty, thereby offering a harmonized model that safeguards constitutional rights while preserving legitimate regional governance authority.

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