

LEGAL DECENTRALIZATION AND HUMAN RIGHTS RELATIVISM IN THE REGULATION OF THE ESTABLISHMENT OF HOUSES OF WORSHIP IN ACEH AND BALI

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Abstract

The controversy surrounding establishing houses of worship in Indonesia reflects the tension between universal human rights values and cultural relativism institutionalized through legal decentralization. In the context of Aceh and Bali, regional authority in regulating religious life has resulted in regulations rooted in local values. This study uses a qualitative approach to study legal documents, including national regulations, the Qanun Aceh, and the Bali Governor's Regulation, supported by secondary data from academic studies and reports from relevant institutions. The analysis results show that legal decentralization strengthens local authority in determining the requirements for establishing houses of worship, but at the same time complicates the licensing process and opens the door to discrimination against minority groups. Policies in both regions place religious freedom as a conditional right that depends on the social consensus of the majority. This freedom is reduced to a relative right that must be guaranteed by the state (local government). This condition shows that regional regulations related to houses of worship do not align with the principles of freedom of religion and non-discrimination as affirmed in the Universal Declaration of Human Rights and the ICCPR.

Keywords: Decentralization, Houses of Worship, Relativism, Freedom of Religion.

Abstrak

Polemik pendirian rumah ibadah di Indonesia mencerminkan ketegangan antara nilai universal hak asasi manusia dan relativisme budaya yang dilembagakan melalui desentralisasi hukum. Dalam konteks Aceh dan Bali, kewenangan daerah dalam mengatur kehidupan keagamaan menghasilkan peraturan yang berakar pada nilai lokal. Penelitian ini menggunakan pendekatan kualitatif dengan studi dokumen hukum yang meliputi peraturan nasional, Qanun Aceh, dan Peraturan Gubernur Bali, serta didukung data sekunder dari kajian akademik dan laporan lembaga terkait. Hasil analisis

menunjukkan bahwa desentralisasi hukum memperkuat otoritas lokal dalam menentukan syarat pendirian rumah ibadah, namun sekaligus memperberat proses perizinan dan membuka ruang bagi diskriminasi terhadap kelompok minoritas. Kebijakan di kedua daerah menempatkan kebebasan beragama sebagai hak bersyarat yang bergantung pada konsensus sosial mayoritas. Kebebasan ini direduksi menjadi hak relatif yang wajib dijamin negara (pemerintah daerah). Kondisi ini menunjukkan bahwa peraturan daerah terkait rumah ibadah belum sejalan dengan prinsip kebebasan beragama dan non-diskriminasi sebagaimana ditegaskan dalam Universal Declaration of Human Rights dan ICCPR.

Kata Kunci: Desentralisasi, Rumah Ibadah, Relativisme, Kebebasan Beragama.

A. Introduction

The issue of establishing houses of worship in Indonesia is one of the classic problems in the governance of religious freedom. Constitutionally, the state guarantees the right of every citizen to worship according to their religion and beliefs as stipulated in Article 28E paragraph (1) and Article 29 paragraph (2) of the 1945 Constitution. However, complex administrative regulations and diverse social interpretations often hampered this freedom. Joint Regulation of the Minister of Religious Affairs and the Minister of Home Affairs No. 9 and 8 of 2006 (the 2006 PBM), which was designed to maintain religious harmony, has often caused controversy because the requirements for establishing a house of worship are considered too burdensome, especially the obligation to obtain minimum support from users and residents. Instead of serving as a unifying guideline, in many cases, the 2006 PBM has become a source of dispute and restriction of religious freedom at the grassroots level. Regulations such as this are considered to make it difficult for religious minorities to build places of worship.¹ This joint ministerial regulation is considered a state intervention in religious freedom.²

When regional autonomy gave provincial and district/city governments broader authority to regulate regional affairs, a new phenomenon emerged that was no less problematic. Some local governments established regulations for

¹ Arifinsyah Arifinsyah and Ahmad Sofian, "Regulation on Worship House Establishment and Implication towards Minority Relation of Religious People Majority in Indonesia," *International Journal of Social Sciences* 4, no. 1 (April 22, 2021): 106–13, <https://doi.org/10.31295/ijss.v4n1.1396>.

² Agus Ujianto et al., "State Intervention in the Establishment of the House of Worship to Realize Religious Harmony," *INTERNATIONAL JOURNAL OF SOCIAL SCIENCE AND EDUCATION RESEARCH STUDIES* 03, no. 04 (April 7, 2023), <https://doi.org/10.55677/ijssers/V03I4Y2023-04>.

establishing houses of worship that were more stringent than the national standards. Some of them increased the amount of community support required, expanded the zoning distance between houses of worship, or required special recommendations from certain institutions not regulated in the 2006 PBM. As a result, the implementation of citizens' constitutional rights has become inconsistent across regions, depending on how local governments interpret "harmony" and "social order." Regulations on the establishment of houses of worship in the regions raise questions about the neutrality of local governments in enforcing them. In fact, this neutrality is sometimes lost because the government appears to support the majority religious group in the area.³ In some areas where a particular religion is in the majority, minority groups face difficulties establishing places of worship. These regulations are not strong enough to protect minority groups and even tend to strengthen the majority.⁴ This situation raises serious questions about the consistency of the application of national law and the guarantee of freedom of religion under a decentralized legal system.

From these general issues, it is important to see how, in the context of legal decentralization, local characteristics influence the formulation of regulations on the establishment of houses of worship, which often weaken the human rights paradigm in guaranteeing freedom of religion. Some regions, such as Aceh and Bali, have legal and social characteristics that differ from those of other regions. With its special autonomy status and application of Islamic law, Aceh has a regulatory configuration influenced by sharia values and social conservatism. Meanwhile, Bali, where most of the population is Hindu, tends to emphasize a traditional approach. These two regions provide an extreme reflection of legal pluralism in Indonesia, where one national regulation can be interpreted differently. This phenomenon makes the disparity in the requirements for establishing houses of worship an issue that is not only administrative, but also ideological and human rights-related.

Normative analyses of the 2006 PBM have dominated academic studies on establishing houses of worship. Suhadi's research assesses that the 2006 PBM tends to strengthen the position of the majority group and hinders the rights of

³ Rozikin Rozikin et al., "Policy Analysis Regarding The Maintenance Of Religious Harmony And The Establishment Of Houses Of Worship (Implementation Study of the Joint Regulation of Minister of Religion And Home Affair Minister Number 9/8 of 2006 in Cilegon City, Banten Province)," *Eduvest - Journal of Universal Studies* 4, no. 5 (May 24, 2024), <https://doi.org/10.59188/eduvest.v4i5.1227>.

⁴ Eliska Schnabel, "Public Resistance to New Houses of Worship," *The Journal of Race, Ethnicity, and Politics* 9, no. 3 (November 18, 2024): 642–67, <https://doi.org/10.1017/rep.2024.22>.

minorities to worship freely. This regulation contains discriminatory elements contrary to social justice, democracy, and freedom of religion.⁵ Other studies criticize the 2006 PBM as not a formal law but a ministerial regulation with limited legal force. The 2006 PBM is considered to have failed to provide strong protection for freedom of religion as guaranteed by the Indonesian Constitution.⁶

Research on the polemic surrounding regulations on the establishment of houses of worship still focuses mainly on the existence of the Joint Ministerial Regulation. Crouch examined the implementation of the 2006 PBM which had a detrimental impact on minority groups. His findings at that time focused on the legal challenges faced by the Batak Protestant Christian Congregation in obtaining protection for its house of worship from local leaders' cancellation of its permit. The author highlights ongoing issues faced by religious minorities due to the failure of local authorities to enforce national regulations and the exploitation of religious conflicts for political gain.⁷ The 2006 PBM aims to maintain religious harmony, but it often leads to the social exclusion of religious minority groups.⁸

Most of these studies stop evaluating national policies without examining how local governments interpret or modify these regulations in the local context. As a result, regional regulatory disparities and their consequences for fulfilling human rights have not been explored much. Another limitation of previous studies is the tendency to view the issue of establishing houses of worship solely as a matter of licensing law, rather than as a human rights issue. This study broadens that perspective by examining how legal decentralization has led to stricter standards in regulating the establishment of houses of worship at the local level, so that the human rights paradigm in religious freedom has not been strengthened, but somewhat reduced by the logic of regional authority. The stricter requirements at the local level reflect how the human rights paradigm in freedom of religion is reinterpreted according to regional values and interests. Regional autonomy in the legal sphere allows local governments to reinterpret

⁵ Suhadi Suhadi, Dani Muhtada, and Andi Gazly Satria Amal, "Legal Reconstruction of the Establishment of Places of Worship in Indonesia: A Legal-Political Analysis within the Framework of Land Use and Spatial Planning Law," *Journal of Indonesian Legal Studies* 9, no. 2 (December 21, 2024): 1181–1208, <https://doi.org/10.15294/jils.v9i2.19162>.

⁶ Ardiansah, "The Settlement of Law Problem on Establishment of Worship Houses in Indonesia," *IOP Conference Series: Earth and Environmental Science* 175 (July 24, 2018): 012171, <https://doi.org/10.1088/1755-1315/175/1/012171>.

⁷ Melissa Crouch, "Implementing the Regulation on Places of Worship in Indonesia: New Problems, Local Politics and Court Action," *Asian Studies Review* 34, no. 4 (December 2010): 403–19, <https://doi.org/10.1080/10357823.2010.527921>.

⁸ Mukh. Imron Ali Mahmudi and M Syaeful Anam, "Pendirian Rumah Ibadah Di Indonesia," *JURNAL PENELITIAN*, July 1, 2021, 77–88, <https://doi.org/10.28918/jupe.v18i1.3469>.

the limits of freedom of religion through regulations on establishing houses of worship. From a human rights relativism perspective, these variations in implementation reflect how the universal value of freedom of religion is negotiated in different cultural and political contexts.

Based on this description, this article attempts to fill the gap in research by conducting a comparative study of the disparities in regulations governing the establishment of houses of worship in Aceh and Bali. This study aims to answer two main questions: how does legal decentralization affect the formulation of regulations governing the establishment of houses of worship in Aceh and Bali, and to what extent are these policies reviewed from the perspective of freedom of religion as a human right?

Using the concepts of legal decentralization and human rights relativism, this article attempts to show that the differences in regulations between Aceh and Bali are not merely administrative variations, but rather representations of how Indonesian law negotiates the universal value of religious freedom with the reality of cultural and political plurality at the local level. Through this critical reading, the article hopes to enrich understanding of the dynamics of legal pluralism and the challenges of implementing human rights in Indonesia's decentralization context.

This study uses a qualitative approach with a legal document study method. Primary data was obtained through a review of laws and regulations governing the establishment of houses of worship at the national and regional levels, including Joint Regulation of the Minister of Religious Affairs and the Minister of Home Affairs No. 9 and 8 of 2006, the Qanun Aceh (Aceh Regulation) relevant to the establishment of houses of worship, and the Bali Governor Regulation which has similar substance. Secondary data was obtained through scientific articles, reports from religious institutions, and media reports documenting the practical application of these regulations to enrich the understanding of the context. Data collection was carried out using documentation and literature review techniques to trace each regulation's content, background, and implementation.

The collected data was then analyzed comparatively and thematically. Comparative analysis was used to assess the differences and similarities between Aceh and Bali regarding the requirements for establishing houses of worship, and to place them within the framework of national regulations. Meanwhile, thematic analysis was used to identify the human rights paradigms and freedom of religion implied in each regulation. The analysis was carried out in three steps:

(1) data reduction, which involved sorting out the legal provisions relevant to the research questions; (2) data presentation, in the form of a matrix comparing the content of the norms; and (3) concluding, by interpreting the results of the comparison based on the concepts of legal decentralization and human rights relativism.

B. Discussion

B.1. Legal Decentralization in Regulations Governing the Establishment of Houses of Worship in Aceh and Bali

The phenomenon of legal decentralization in Indonesia marks a new chapter in the relationship between the central and regional governments. Regional autonomy means the transfer of administrative authority and the distribution of normative authority. Regional governments have the authority to formulate legally binding regulations within their territories. Regional autonomy allows regional governments to create regulations tailored to their communities' specific needs and interests.⁹ However, in practice, legal decentralization also presents challenges because the formulation of regional regulations often disregards applicable legislative principles, resulting in regulations that are ineffective and unresponsive to community needs.¹⁰

In this context, regulations regarding establishing houses of worship become an interesting topic for reflection. On the one hand, their existence is related to the freedom of religion guaranteed by the Constitution. On the other hand, their existence intersects with social dynamics, local identity, and local government authority. Legal decentralization in the realm of religious life presents two contrasting faces. It can strengthen democratic practices at the local level, while also opening up space for fragmentation within the national legal system.

After the Reformation, political and administrative decentralization gave local governments considerable authority in determining public policy, including religious affairs. In establishing houses of worship, this authority gave local elites a strategic position as the primary decision-makers in the licensing process.

⁹ Lies Ariany and Risni Ristiawati, "The Urgency Of Creating Regional Regulations For Supporting The Implementation Of Regional Autonomy," *Syariah: Jurnal Hukum Dan Pemikiran* 19, no. 1 (May 27, 2019): 75, <https://doi.org/10.18592/sjhp.v19i1.2652>.

¹⁰ E.N.A.M. Sihombing et al., "The Regional Regulation Concerning Management of Zakat Viewed from the Principles of Formulation of Legislation," *International Journal of Advanced Science and Technology* 29, no. 6 (2020): 1098–1103, <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85083981496&partnerID=40&md5=3b759ad77f94ce0948df071f5d2fbd78>.

They not only acted as enforcers of central regulations but also as political actors who interpreted policies in accordance with the social dynamics of their regions. In practice, this authority is often used to adjust, delay, or even restrict the establishment of houses of worship to preserve "local wisdom" or social stability. Pressure from majority groups, electoral political interests, and power calculations often influence these decisions. As a result, decentralization, which was initially expected to strengthen local democracy, has instead opened up space for the politicization of religion and the reproduction of religious inequality at the regional level.¹¹

Nationally, the basic norms governing the establishment of houses of worship are regulated through the 2006 PBM. This regulation contains several administrative provisions, including a list of at least 90 users of the house of worship, support from at least 60 members of the surrounding community, a written recommendation from the Forum for Religious Harmony (FKUB), and written permission from the regional head. The existence of the 2006 PBM has not been without controversy and criticism. The 2006 PBM is often considered to have failed to protect the rights of minorities, leading to discrimination adequately.¹²

One of the fundamental weaknesses of the 2006 PBM lies in its normative design, which fails to provide adequate protection for minority groups. Characteristically, the 2006 PBM places the procedure for establishing houses of worship within a rigid administrative framework oriented toward the social harmony of the majority, rather than toward guaranteeing the religious freedom of individuals and minority groups. Provisions such as the requirement to obtain the support of the surrounding community and the Forum for Religious Harmony (FKUB) recommendation actually open the door to discriminatory practices. As a result, the state indirectly restricts religious rights through legal instruments that are supposed to be protective. Thus, the 2006 PBM not only demonstrates the weakness of legal protection for minorities but also reinforces

¹¹ Angel Damayanti, "Muslim-Christian Relationships in Indonesian Reform Era Within The Framework of Democracy: Case Study of Bandung, Bekasi and Bogor (1998-2015)," in *Proceedings of the Third International Conference on Social and Political Sciences (ICSPPS 2017)* (Paris, France: Atlantis Press, 2018), <https://doi.org/10.2991/icspps-17.2018.3>.

¹² M. Syifa Afandi, Zulkifli Zulkifli, and A'ang Subiyakto, "The Polemic of Worship Houses Construction in Indonesia: An Islamic and Positive Law Perspective," in *Proceedings of the 4th International Colloquium on Interdisciplinary Islamic Studies in Conjunction with the 1st International Conference on Education, Science, Technology, Indonesian and Islamic Studies, ICIIIS and ICESTIIS 2021, 20-21 October 2021, Jambi* (EAI, 2022), <https://doi.org/10.4108/eai.20-10-2021.2316312>.

the dominance of the majority group in determining the religious rights of others.¹³

In its legal construction, the 2006 PBM aims to balance the guarantee of freedom of worship with the need to maintain order and social harmony. However, requirements that are more favorable to the majority cause this objective to feel like it is actually suppressing minorities. Many suggestions have been made to improve the model requirements for establishing houses of worship. One of them is that the technical requirements for establishing houses of worship need to be reviewed to align them with the values of Pancasila, which can help reduce discrimination so that the existence of these regulations truly promotes religious harmony.¹⁴ Overall, improvements to the technical requirements need to prepare a more accommodating legal framework to prevent future conflicts.¹⁵

In addition to technical requirements, the legal position of the 2006 PBM, which is only a ministerial regulation, places it at the level of a sub-legal norm, below laws and government regulations. As a result, there is considerable room for regional interpretation of the 2006 PBM, particularly in determining administrative criteria and the institutions involved in the licensing process. This situation provides opportunities for local governments to interpret central government policies in accordance with the local socio-political context. Through the mechanism of legal decentralization, this authority is manifested in the formation of various local regulations, such as regional regulations or Qanun, which interpret national provisions with each region's values and social structures.

In the context of religious freedom, this mechanism allows each region to have its own interpretation of the implementation of this right, including regulating the establishment of houses of worship. As a result, standards for the protection of religious rights are no longer uniform, but depend on local values and social preferences, which in some cases actually reinforce practices of exclusion against minority groups. Although the Indonesian Constitution

¹³ Manotar Tampubolon and Norazlina Abdul Aziz, "Violating Christian Minority Freedom of Religion in Indonesia," *The International Journal of Religion and Spirituality in Society* 11, no. 1 (2021): 235–53, <https://doi.org/10.18848/2154-8633/CGP/v11i01/235-253>.

¹⁴ Anifatul Kiftiyah and Tri Sutrisno, "Aligning Pancasila Values in The Regulation For Worship House Construction in Indonesia," *Pancasila: Jurnal Keindonesiaan* 3, no. 1 (April 27, 2023): 47–56, <https://doi.org/10.52738/pjk.v3i1.136>.

¹⁵ Idrus Ruslan, Mawardi Mawardi, and Ahmad Afnan Anshori, "Deconstruction of the Policy for the Establishment of Houses of Worship in Indonesia," *Religious: Jurnal Studi Agama-Agama Dan Lintas Budaya* 6, no. 2 (August 29, 2022): 261–70, <https://doi.org/10.15575/rjsalb.v6i2.21396>.

guarantees freedom of religion, its implementation is highly dependent on the attitudes of local officials and the social preferences of the majority. Local officials often interpret religious rights based on "public order" and local norms, rather than universal human rights principles.¹⁶

Aceh is the most explicit example of a form of asymmetric legal decentralization recognized by the state. Based on Law No. 11 of 2006 on the Government of Aceh, this province has the right to formulate Qanun as a regional legal product with the same regulatory power as regional regulations, but with a special interpretation within the framework of Islamic law. This law gives Aceh significant autonomy, enabling it to implement Islamic law through Qanun.¹⁷

In regulatory practice, several provisions in Aceh add elements of Sharia and religious legitimacy to the mechanism for establishing houses of worship. For example, the licensing process not only requires community support as stipulated in the 2006 PBM, but also requires consideration or recommendations from the Imuem Mukim as the official religious leader of the region. Thus, religious authorities have gained a formal position in administrative procedures. Aceh can be seen as an example of religio-legal decentralization, where state law and religious law are integrated into a single normative system. This pattern of decentralization shows a strong ideological character because it not only focuses on delegating administrative authority but also integrates Sharia principles into the regional legal system. Thus, decentralization in Aceh reflects efforts to formalize religious values within a state-recognized local legal framework.¹⁸

This situation is further reinforced by local political dynamics that use religious issues as a strategic tool to maintain power. The establishment of non-Muslim places of worship often faces not only administrative problems, but is also influenced by the political calculations of local elites. Support for the majority group is often maintained through the management of issues of intolerance or restrictions on minority groups. In this context, religious conflict is not merely the result of differences in belief, but rather the result of political strategies that maintain electoral loyalty. As a result, religious policies at the

¹⁶ Tim Lindsey and Helen Pausacker, eds., *Religion, Law and Intolerance in Indonesia* (1 [edition]. | New York: Routledge, 2016. | Series: Routledge law in Asia 15: Routledge, 2016), <https://doi.org/10.4324/9781315657356>.

¹⁷ Muhammad Ridwansyah et al., "Regulation of Cabinet Relations with the Government of Aceh within the Framework of a Presidential System," *Jurnal Ilmiah Peuradeun* 13, no. 2 (May 30, 2025): 1345–68, <https://doi.org/10.26811/peuradeun.v13i2.1607>.

¹⁸ M M Marpaung and H Susetyo, "Canning: Syariah Law Versus Human Rights in Aceh, Indonesia," in *Challenges of Law and Governance in Indonesia in the Disruptive Era II*, 2021, 117–28, <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85132463886&partnerID=40&md5=9750fed613451881df8c25f85874e1c7>.

local level often reflect compromises of power rather than principles of justice and freedom of religion. In some areas, such as Aceh Singkil, permits for the establishment of non-Muslim houses of worship are often influenced by political interests, where religious conflict is maintained in order to gain majority support.¹⁹

Meanwhile, Bali presents a different pattern of legal decentralization. This region does not have special autonomy status, but exercises general autonomy as stipulated in Law No. 23 of 2014. Bali's cultural and religious character shapes a pattern of legal decentralization rooted in cultural values. The dominance of the Hindu community has given rise to a social system closely integrated with (*adat*) customary law. The teachings of the Vedas form the primary basis of the social and religious life of the Balinese Hindu community. These teachings have been acculturated with the local culture, creating a unique and dynamic Balinese Hindu practice.²⁰

This condition has led to cultural decentralization in regional regulations that adapt national law to local (*adat*) customary principles and religious values. The provincial-level regulation establishing houses of worship in Bali does not merely adopt the 2006 PBM verbatim but adds provisions referring to Balinese local wisdom. This embodies the concept of balance in the relationship between humans, nature, and God. Through Governor Regulation No. 10/2006, the Province of Bali increased the minimum requirement for support from non-Hindu residents to establish a house of worship, thereby creating greater obstacles for non-majority religious groups.²¹

Another addition to the requirements for establishing a house of worship in Bali is the obligation to obtain approval from the customary village (*desa adat*) and to conduct consultations with local (*adat*) customary institutions (Article 2, paragraph 3 of Bali Governor Regulation No. 10/2006). This provision reflects how legal decentralization allows local characteristics to influence the substance of regional regulations. However, such autonomy also creates new complexities, as establishing a house of worship is no longer merely a legal-administrative

¹⁹ Muzakkir Muzakkir and M. Anzaikhan, "Qanun and House of Worship Conflict: The Irony of the Aceh Government in Aceh Singkil," *Journal of Ecohumanism* 3, no. 7 (October 3, 2024): 511–22, <https://doi.org/10.62754/joe.v3i7.4221>.

²⁰ Mangku Pastika et al., "Tracking the Footprints of the Veda Teachings Implementation Study on Hindus in Bali," *International Journal of Engineering, Science and Information Technology* 5, no. 3 (July 3, 2025): 415–18, <https://doi.org/10.52088/ijesty.v5i3.973>.

²¹ I Nyoman Darma Putra, "13 Puja Mandala: An Invented Icon of Bali's Religious Tolerance?," in *Between Harmony and Discrimination: Negotiating Religious Identities within Majority-Minority Relationships in Bali and Lombok* (BRILL, 2014), 330–53, https://doi.org/10.1163/9789004271494_015.

matter but also intersects with strong social dynamics and (*adat*) customary authority at the local level.

The decentralized legal approach in Bali places (*adat*) customary institutions and the majority religious leaders at the center of social legitimacy. As a result, forming regional regulations tends to reflect the cultural interests of the majority rather than the principle of universal justice. The integration between national legal norms and local cultural values, which appears harmonious on the surface, narrows the space for diversity and weakens the position of groups outside the (*adat*) customary system. The decentralization model in Bali demonstrates an exclusive tendency. The dominant role of (*adat*) customary institutions and majority religious figures in formulating regional policies often obscures the principle of equality before the law. The idealized harmonization between national law and local cultural values has, in reality, produced a new social hierarchy that places minority groups in a subordinate position.

In several cases, the increase in support requirements stipulated in regional regulations has caused minority religious groups in Aceh to face various administrative obstacles not found in national regulations. Requirements such as a minimum number of worshippers and support from the local community have become a particular burden for Christian communities, whose numbers are limited in the region.²² This condition illustrates how the implementation of legal decentralization in Aceh has produced regulations that reflect local socio-religious dominance. As a result, establishing churches is often constrained by local social and political considerations that undermine the spirit of religious freedom.

A similar situation is also evident in Bali, where Christian communities face difficulties building churches, even though the region is widely regarded as relatively open and tolerant toward diversity.²³ In addition, Muslim communities in Bali also encounter similar obstacles when attempting to establish mosques.²⁴ The additional requirements for obtaining approval from the *desa adat* and

²² Imamatussunnisa Farha, "Pembangunan Gereja Di Aceh Singkil Masih Terkendala Izin," *Aceh Journal National Network*, May 26, 2023, <https://www.ajnn.net/news/pembangunan-gereja-di-aceh-singkil-masih-terkendala-izin/index.html>.

²³ Metro Bali, "Masyarakat Bebalang Minta Pembangunan Gereja Dihentikan," *Metro Bali*, June 11, 2012, <https://metroballi.com/masyarakat-bebalang-minta-pembangunan-gereja-dihentikan/>.

²⁴ Mabruroh, "Di Negeri Mayoritas Muslim, Warga Indonesia Timur Kesulitan Bangun Masjid," *Republikas*, February 22, 2023, <https://khazanah.republika.co.id/berita/rqh85f451/di-negeri-mayoritas-muslim-warga-indonesia-timur-kesulitan-bangun-masjid>.

consultation with (*adat*) customary institutions demonstrate the strong influence of local culture and social structures in determining the realization of religious freedom.

In some instances, (*adat*) customary authorities have played an active role in restricting the religious activities of minority groups under the pretext of maintaining social harmony and local values. This is clearly reflected in a report by the Indonesian National Commission on Human Rights (Komnas HAM) concerning the case of the ISKCON Indonesia Foundation, in which the Bali Customary Village Council (*Majelis Desa Adat Bali*) was reported to have participated in decisions to close or limit religious activities within (*adat*) customary territories, thereby sparking controversy over religious freedom at the local level.²⁵ In the context of legal decentralization, such local characteristics often complicate the implementation of the non-discriminatory principles mandated by national law.

When examined more closely, the differing requirements for establishing houses of worship in Aceh and Bali illustrate how the character of legal decentralization determines the direction of norm formation. In Aceh, including religious elements, such as the consideration of the majority religious leaders, reflects a form of religious decentralization. The regional legal authority expresses Islamic identity as an integral part of the local legal system. Meanwhile, in Bali, the involvement of (*adat*) customary institutions and the principle of social harmony demonstrates cultural decentralization, where regional law affirms local cultural identity and spirituality.

Decentralization through the granting of regional autonomy in regulating the establishment of houses of worship has sparked controversy. Local policies and interpretations often produce discriminatory regulations and differing administrative barriers between regions, including Aceh and Bali. Thus, it is weakening the guarantee of equality in religious rights.²⁶ Both stem from the same spirit of regional autonomy, yet their implementation has turned universal values into relative ones. The principles of religious freedom and equality of

²⁵ Kadek Melda Luxiana, "Merasa Dihalangi Beribadah, ISKCON Laporkan Gubernur Bali Ke Komnas HAM," *detiknews*, 2021, <https://news.detik.com/berita/d-5597690/merasa-dihalangi-beribadah-iskcon-laporkan-gubernur-bali-ke-komnas-ham>.

²⁶ Komisi Nasional Hak Asasi Manusia Republik Indonesia, *Kajian Komnas HAM RI Atas PBM Nomor 9 Dan 8 Tahun 2006 Tentang Pedoman Pelaksanaan Tugas Kepala Daerah Dalam Pemeliharaan Kerukunan Umat Beragama Dan Pendirian Rumah Ibadah*. (Jakarta: Komisi Nasional Hak Asasi Manusia Republik Indonesia, 2020), <https://www.komnasham.go.id/files/20201219-kajian-komnas-ham-ri-atas-pbm--%24VBFI34A.pdf>.

citizens, which should apply uniformly across Indonesia, are now interpreted differently by each region. Consequently, exercising citizens' fundamental rights depends on the preferences of local policies rather than on constitutional guarantees that should be fixed and non-negotiable. Universal values such as religious freedom and equality before the law no longer stand on the same footing but are subjected to the interpretations and interests of each locality. Here, universal principles lose their binding power and are replaced by the logic of local particularism.

The analysis of the requirements for establishing houses of worship in Aceh and Bali shows that legal decentralization has become the primary source of complexity in Indonesia's religious regulatory framework. While regional authority in norm formation broadens local participation, it also shifts the center of legal legitimacy from the state to local communities—whether grounded in religion or culture. In practice, Aceh exhibits a normative model based on Islamic law, while Bali emphasizes (*adat*) customary norms and social harmony as the foundation of regulation. Both are legitimate within the national legal framework, yet they create serious vertical inconsistencies because each interprets religious freedom differently.

The experiences of these two regions highlight the urgent need for a stronger coordination mechanism between central and regional governments so that legal autonomy does not evolve into legal relativism that undermines constitutional principles of religious freedom and equality before the law. Based on the lessons from these regions, strengthening vertical coordination mechanisms is an urgent step to ensure that the implementation of legal autonomy remains grounded in universal constitutional values.

B.2. Human Rights Relativism in Regulating the Establishment of Houses of Worship

The debate between universalism and relativism of human rights (HR) represents a crucial point in understanding the regulation of house-of-worship establishment in Indonesia. Universalism asserts that fundamental human rights are inherent and must not be limited by cultural, religious, or political differences. The theory of Human Rights Universalism emphasizes that fundamental human rights are absolute, non-negotiable by cultural norms or local laws, and must be applied uniformly across all regions without exception.²⁷

²⁷ Adil Çamur, "Embracing Diversity, Upholding Universality: A Moral Discourse on Human Rights," in *Sosyal Bilimlerde Akademik Araştırma ve Değerlendirmeler- VI* (Özgür Yayınları, 2023),

The universalist view is grounded in the principle that human rights — including freedom of religion— derive their legitimacy from international law and the national Constitution, and therefore, local interpretations based on culture or majority norms should not be restricted.²⁸ This theory also stresses that the state must remain neutral in religious affairs and ensure that all religious groups have equal rights to build houses of worship.²⁹

Conversely, the theory of Human Rights Relativism argues that human rights cannot be applied absolutely and must be adapted to each community's cultural values, traditions, and social norms.³⁰ This theory holds that every region possesses distinct cultural characteristics; thus, implementing human rights, especially religious freedom, must align with local contexts. Such adaptation is essential to prevent the exercise of these rights from sparking broader social tensions.³¹ Often, state policies prioritize local values over universal human rights principles.³² This approach is often justified to maintain social harmony and local stability, yet it may simultaneously sacrifice the fulfillment of individuals' fundamental rights. The tension between local values

<https://doi.org/10.58830/ozgur.pub402.c1770>; Olena Makeieva and Hanna Rybikova, "UNIVERSALITY OF HUMAN RIGHTS: A CROSS-CULTURA ANALYSIS," *Scientific Works of National Aviation University. Series: Law Journal "Air and Space Law"* 1, no. 70 (March 31, 2024): 50–55, <https://doi.org/10.18372/2307-9061.70.18480>; O. Myroniuk, "Universality of Human Rights: Theoretical Dimension," *Analytical and Comparative Jurisprudence*, no. 1 (March 20, 2024): 56–59, <https://doi.org/10.24144/2788-6018.2024.01.8>.

²⁸ Paul Guyer, "Arguing for Freedom of Religion," *Roczniki Filozoficzne* 70, no. 4 (December 30, 2022): 365–94, <https://doi.org/10.18290/rf2204.13>; Daniel Philpott, "Why Religious Freedom Is a Human Right," *The American Journal of Jurisprudence* 68, no. 3 (March 28, 2024): 177–94, <https://doi.org/10.1093/ajj/auae003>; John Witte, Joel A. Nichols, and Richard W. Garnett, "The Essential Rights and Liberties of Religion," in *Religion and the American Constitutional Experiment* (Oxford University Press New York, 2022), 59–92, <https://doi.org/10.1093/oso/9780197587614.003.0004>.

²⁹ Stijn Smet, "State Neutrality and Religious Diversity in Europe," *Oxford Journal of Law and Religion* 11, no. 1 (February 11, 2023): 1–3, <https://doi.org/10.1093/ojlr/rwac019>.

³⁰ Muhammad Rizki Akbar Lubis, "Human Rights And Relativism Through The Lens Of Developing Nations Case Study Of Indonesia's Ratification On CEDAW," *International Law Discourse in Southeast Asia* 2, no. 1 (January 31, 2023), <https://doi.org/10.15294/ildisea.v2i1.63262>; Anicée Van Engeland, "Human Rights: Between Universalism and Relativism," in *International Conflict and Security Law* (The Hague: T.M.C. Asser Press, 2022), 93–113, https://doi.org/10.1007/978-94-6265-515-7_5.

³¹ Andrii Marchenko, "RELIGION AND HUMAN RIGHTS IN DISCOURSE AND PRACTICE OF CULTURAL RELATIVISM AND UNIVERSALISM," *Sophia. Human and Religious Studies Bulletin* 20, no. 2 (2022): 36–40, <https://doi.org/10.17721/sophia.2022.20.8>.

³² Suparman Marzuki, "Perspektif Mahkamah Konstitusi Tentang Hak Asasi Manusia," *Jurnal Yudisial* 6, no. 3 (2013): 189–206, <https://doi.org/https://jurnal.komisiyudisial.go.id/index.php/jy/article/view/98>; Suparman Marzuki, "Assessing the Conformity of Human Rights Paradigm in Indonesian Legislation and the Rulings of the Constitutional Court," *Academic Journal of Interdisciplinary Studies* 12, no. 4 (July 5, 2023): 239, <https://doi.org/10.36941/ajis-2023-0110>.

and universal principles underscores the complexity of human rights implementation within Indonesia's decentralized and socially diverse framework.

According to universal principles, freedom of religion is guaranteed under Article 18 of the Universal Declaration of Human Rights (UDHR). Other international legal instruments, such as the International Covenant on Civil and Political Rights (ICCPR), affirm individuals' right to have, practice, and express their religion or belief, including by establishing houses of worship. Article 18 of the ICCPR, which Indonesia ratified through Law No. 12 of 2005, explicitly guarantees this right without discrimination. Meanwhile, Indonesia's Constitution, specifically Article 28E paragraph (1) and Article 29 paragraph (2) of the 1945 Constitution, also ensures freedom of religion and worship. However, the implementation of religious freedom in the context of establishing houses of worship has been modified through national policy, namely the 2006 PBM which serves as the main normative instrument governing the issue.

The 2006 PBM can be interpreted as a compromise between constitutional guarantees of religious freedom and the need to maintain social harmony. The regulation requires at least 90 worshippers and approval from 60 residents, accompanied by recommendations from the Religious Harmony Forum (Forum Kerukunan Umat Beragama, FKUB) and the regional office of the Ministry of Religious Affairs. Normatively, these provisions aim to prevent interreligious conflict. However, from a human rights perspective, this mechanism represents a form of relativization of rights, where religious freedom is not entirely free but conditioned upon majority social acceptance.

Decentralization of authority through regional autonomy further strengthens the local dimension of this human rights relativism. Aceh and Bali serve as compelling examples of how local values influence interpretations of religious freedom. In Aceh, regulations on the establishment of houses of worship are subject not only to the 2006 PBM but also to Islamic legal norms as stipulated in Qanun No. 4 of 2016 on Guidelines for the Establishment and Management of Houses of Worship. This Qanun reinforces the necessity of obtaining recommendations from religious leaders in addition to the FKUB. Thus, religious freedom in Aceh is interpreted within a religious framework, where religious legitimacy becomes an administrative prerequisite. This reflects religious relativism as universal rights are adapted to the region's Islamic identity. On the one hand, this approach is seen as a localization of human rights values in accordance with Acehese moral frameworks. On the other hand, it risks discriminating against non-Muslim minorities who struggle to meet such socio-religious requirements.

In contrast, Bali demonstrates a form of cultural relativism in regulating houses of worship. Although Bali lacks specific legislation like Aceh, (*adat*) customary institutions heavily influence administrative practices. Recommendations from customary villages (*desa adat*) often play a decisive role in determining permits for house-of-worship construction. In this context, religious freedom is assessed through positive law and its ability to coexist with (*adat*) customary institutions. Bali's cultural relativism shows how (*adat*) customary values ensure that religious expression does not disrupt the local social and spiritual order. This approach, however, may introduce bias against minority religious groups that lack strong representation within the (*adat*) customary structure.

Both examples confirm that human rights relativism in Indonesia's house-of-worship regulation operates on multiple levels, national and local. At the national level, the 2006 PBM functions as an institutional compromise between universal rights and the need to preserve social harmony. At the local level, regulations such as Aceh's Qanun and Bali's *adat*-based practices illustrate how regional autonomy enables new interpretations of human rights that align with the dominant societal values. Regional regulations requiring community approval or endorsement from the majority religious leaders are often justified to preserve stability and prevent interreligious conflict. From a relativist perspective, such local rules can be viewed as adaptations to the values held by the community.³³

Human rights relativism in regulating houses of worship in Indonesia is a logical consequence of a pluralistic and decentralized legal system. Regulations on house of worship establishment often embody institutionalized forms of value relativism sanctioned by the state. Rather than serving as mechanisms to safeguard religious freedom, these regulations frequently reproduce inequality through administrative requirements that favor the majority. In this context, relativism is not an adjustment to social and cultural diversity but a tool for legitimizing discriminatory practices that contradict human rights principles. Therefore, it is essential to critique policy paradigms that place social harmony above religious freedom and to strengthen state mechanisms ensuring that all regulations comply with universal human rights standards and the principle of non-discrimination.

³³ Ridwan Arifin et al., "The Adversity on Establishing Places of Worship: Has Religious Freedom Failed in Indonesia?" *Legality: Jurnal Ilmiah Hukum* 29, no. 1 (February 15, 2021): 93–113, <https://doi.org/10.22219/ljih.v29i1.15317>.

C. Conclusion

Legal decentralization in Indonesia not only expands regional authority in managing local affairs but also generates increasingly complex variations in the requirements for establishing houses of worship at the local level. In Aceh, special autonomy based on Islamic law has produced regulations that tighten the licensing process for building houses of worship through high demands for social support and recommendations from official religious institutions, thereby limiting worship spaces for minorities. In Bali, customary legitimacy (*legitimasi adat*) has transformed into an informal mechanism that requires approval from customary villages (*desa adat*) or majority communities before a house of worship can be constructed. Both models demonstrate that local authority within the decentralization framework is often translated into exclusive administrative burdens, positioning freedom of religion as a conditional right subject to the majority's social consensus.

The policy on establishing houses of worship in Aceh and Bali shows that the implementation of legal decentralization in Indonesia has not fully aligned with the principle of freedom of religion as a universal human right. Regional authority, intended to accommodate the diversity of local values, is often translated into institutionalized restrictions on rights through administrative and social mechanisms. This model positions freedom of religion not as a right guaranteed by the state but as a conditional right dependent on the approval of the social majority. From a human rights perspective, such policies violate the principles of universality and non-discrimination as stated in the Universal Declaration of Human Rights and the ICCPR, using cultural and religious relativism to justify restricting fundamental rights. For local governments, to ensure that the implementation of decentralization remains consistent with the principle of freedom of religion as a human right, it is necessary to review the policy on establishing houses of worship to prevent the imposition of discriminatory requirements. Local governments must also be supervised through transparent and accountable mechanisms so that every decision regarding worship permits adheres to the principle of non-discrimination.

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