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The Principle of Divinity in Indonesia's National Legal Order: Legitimation, Interpretation, and Control

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Abstract

Background: The Principle of Divinity, rooted in the first precept of *Pancasila* and Article 29 of the 1945 Constitution of the Republic of Indonesia, is a constitutional value that should guide the formation, interpretation, and review of law. Its practical translation remains uneven, particularly in matters concerning freedom of religion and belief.
Objective: This study examines three interrelated functions of the Principle of Divinity—legitimation, interpretation, and control—and their implications for legal certainty and substantive justice.
Methods: This normative-doctrinal study employs statutory, conceptual, and case approaches. Primary legal materials comprise constitutional provisions, legislation, and selected decisions of the Constitutional Court and the Supreme Court of Indonesia. Reports published by the SETARA Institute are used solely as secondary contextual sources, rather than as empirical data collected by the authors.
Results: The analysis shows that the three functions operate sequentially but are translated into legal norms and practice inconsistently. Legitimation may be undermined when implementing regulations impose disproportionate barriers; interpretation varies across judicial decisions; and judicial control remains selective. The analysis of regulations and judicial decisions supports the identification of inconsistencies in value translation and the development of a six-stage harmonization model. SETARA Institute monitoring indicates persistent violations of freedom of religion or belief; however, the reported figures are treated as contextual indicators rather than as evidence of causation.
Conclusion: The central problem lies in the inconsistent translation of the Principle of Divinity from philosophical and constitutional values into legislation, institutional interpretation, judicial control, and legal practice. Continuous harmonization is necessary to align constitutional values concerning religion with the principles of equality, human dignity, and the protection of rights.

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INTRODUCTION

The first precept of Pancasila, *Ketuhanan Yang Maha Esa* (Belief in the One and Only God), establishes the Principle of Divinity as a moral and philosophical foundation for the conduct of state affairs in Indonesia. Analytically, this article uses the term "Principle of Divinity" to refer to the constitutional-normative orientation derived from the first precept of Pancasila and Article 29 of the 1945 Constitution of the Republic of Indonesia. It is therefore distinct from "religious values," which may refer to the substantive teachings of particular religious traditions; from

"Pancasila values," which encompass all five precepts; and from "freedom of religion or belief," which is a specific constitutional right protected within that broader normative framework. This principle does not stand alone but serves as a foundation that informs the development of the values of humanity, unity, democracy, and social justice throughout the Pancasila system. In the legal context, the Principle of Divinity also occupies the position of a legal ideal (*cita hukum*) that should guide the formation, application, and enforcement of national law (Piter & Riyanto, 2024). Pancasila should therefore not be treated merely as an ideological symbol; rather, its values must be translated into concrete provisions and practices within the legal system and the conduct of the state (Tahir, 2023). Moreover, the concept of justice in a state founded on Pancasila cannot be separated from the dimension of Divinity, because the administration of justice must integrate morality, respect for human dignity, and substantive justice.

Constitutionally, this principle is articulated explicitly in Article 29 of the 1945 Constitution of the Republic of Indonesia. Paragraph (1) stipulates that the state is based on Belief in the One and Only God, while paragraph (2) guarantees every resident the freedom to embrace their respective religion and to worship in accordance with their religion and belief. This guarantee demonstrates that the Principle of Divinity has not only a philosophical and declaratory dimension but also gives rise to a constitutional obligation for the state to guarantee and protect freedom of religion or belief (Manu, 2024). In the exercise of judicial power, the same principle is reflected in the phrase "For the Sake of Justice Based on Belief in the One and Only God," as stipulated in Article 2(1) of Law No. 48 of 2009 concerning Judicial Power. This phrase should not be reduced to a ceremonial expression; rather, it entails the requirement that judicial reasoning and the application of law be oriented toward justice that is not merely formal but also grounded in moral and substantive considerations consistent with Pancasila as a legal ideal.

The legal problem addressed by this study lies in the gap between constitutional norms and their implementation. SETARA Institute recorded 217 incidents involving 329 acts of violations of freedom of religion or belief in 2023 and 260 incidents involving 402 acts in 2024; its 2025 report recorded 221 incidents involving 331 acts (SETARA Institute, 2024, 2025). These annual monitoring figures are used here as secondary contextual evidence, not as empirical data generated by this study or as proof that inconsistent application of the Principle of Divinity directly caused the reported violations. Instead, the figures point to a persistent implementation problem that warrants doctrinal examination of legislation, judicial decisions, and relevant scholarship. The lower figures recorded in 2025 are therefore treated descriptively and are not interpreted, in themselves, as evidence of either improvement or deterioration in constitutional protection.

The problem is further illustrated by the nature of the reported violations. The use of legal instruments relating to blasphemy increased from 15 cases in 2023 to 42 cases in 2024, while problems concerning the establishment and operation of houses of worship continued to be reported (SETARA Institute, 2025). West Java has also repeatedly been identified as one of the regions with the highest numbers of violations of freedom of religion or belief (*kebebasan beragama dan berkeyakinan*, KBB), ranking highest in both 2023 and 2024. This situation indicates a structural problem in translating the constitutional guarantee of freedom of religion or belief into administrative regulations, local government policies, and law enforcement practices. Studies of regulations governing the establishment of houses of worship, for example, show that certain administrative requirements can create practical difficulties for minority religious groups and potentially exacerbate imbalances in majority-minority relations (Arifinsyah & Sofian, 2021). Thus, the problem is not merely the absence of protective norms but also the manner in which these values and normative guarantees are translated into legal structures and institutional practices.

Previous studies on the relationship between religion, the state, and law in Indonesia can be grouped into at least two main strands. The first focuses on regulatory and administrative aspects, particularly the establishment of houses of worship and the implementation of the Joint Regulation of the Minister of Religious Affairs and the Minister of Home Affairs No. 9 of 2006 and No. 8 of 2006. Studies in this strand identify problems in regulatory implementation, particularly where administrative mechanisms intersect with majority-minority relations in society

(Arifinsyah & Sofian, 2021). However, this approach tends to focus on implementation problems and has not systematically traced them back to the position of the first precept of Pancasila as a legal ideal and a normative basis for the formation of national law.

The second strand focuses on pluralism, religious freedom, blasphemy, and the relationship between the protection of constitutional rights and majoritarian pressure. Hasani & Halili (2022), for example, identify constitutional and human rights concerns arising from the regulation of blasphemy in Indonesia. Indrayanti and Saraswati (2022) also identified the problem of unclear formulation of blasphemy laws that can open up a wide range of interpretation and have an impact on freedom of religion and expression. This issue remains relevant in the development of national criminal law because regulations related to religion and belief in the new Criminal Code still give rise to discourses about the boundaries between religious protection, citizen freedom, and the use of criminal law (Butt, 2023). At the constitutional level, Said (2025) identify tensions between the normative guarantee of religious freedom and the practice of constitutional adjudication in contexts characterized by pluralism and majoritarian pressure.

Although these studies make important contributions, the literature reviewed for this article remains fragmented across administrative regulation, criminal law, human rights, and constitutional adjudication. The review focused on peer-reviewed scholarship and authoritative legal materials directly addressing the Principle of Divinity, freedom of religion or belief, regulations governing houses of worship, and constitutional review. Within the body of literature examined, no source was identified that systematically connects legitimation, interpretation, and control across the formation, application, and review of legal norms. The novelty claim is therefore limited to the literature examined in this study: the proposed framework maps these functions sequentially and identifies points at which the translation of values may break down across the philosophical-constitutional, normative, institutional, and practical levels.

Against this background, the research question is as follows: How does the Principle of Divinity operate within Indonesia's national legal order? This study analyzes its three principal functions—legitimation, interpretation, and control—and their implications for legal certainty and substantive justice. The analysis treats Pancasila not merely as a formal source of legal validity but also as a legal ideal whose constitutional values must be translated consistently into the formation of law (Gusman & Arnetti, 2023).

This study offers three principal contributions to the literature. First, it develops a framework that organizes the three functions of the Principle of Divinity into successive stages: legitimation at the stage of legal formation, interpretation at the stages of legal application and legal discovery, and control at the stage of norm review. This framework provides a functional mapping that goes beyond descriptive and normative accounts of the first precept of Pancasila. Second, the study introduces the concept of *inconsistency in value translation*, which diagnoses the problem in the national legal order as lying not primarily in the absence of religious values but in the inconsistent translation of values from the philosophical-constitutional level to the normative, institutional, and practical levels. Third, the study develops a six-stage harmonization model comprising value identification, constitutionalization, legislation, interpretation, control, and empirical evaluation. The model incorporates measurable indicators of success and thus extends existing approaches to legal harmonization, which have tended to focus primarily on the harmonization of legislation and the review of legal norms.

METHOD

This study employed normative-doctrinal legal research using statutory, conceptual, and case approaches. The statutory approach examined the hierarchical consistency of constitutional and implementing norms; the conceptual approach developed the three-function framework of legitimation, interpretation, and control; and the case approach examined the *ratio decidendi* of selected Constitutional Court and Supreme Court decisions. Legal materials were identified from official legislative and judicial repositories and scholarly literature relevant to Pancasila, freedom of religion or belief, constitutional rights, and judicial review. The selection criteria were direct relevance to the research question, authoritative legal status, and source traceability. Materials lacking verifiable legal texts or a direct analytical connection to the research question were

excluded. The review covered legal materials available up to the completion of the manuscript in 2026.

The primary legal materials included the 1945 Constitution of the Republic of Indonesia; Law No. 39 of 1999 on Human Rights; Law No. 48 of 2009 on Judicial Power; Law No. 12 of 2011 on the Formation of Legislation, as amended; the Joint Regulation of the Minister of Religious Affairs No. 9 of 2006 and the Minister of Home Affairs No. 8 of 2006 (*Peraturan Bersama Menteri*, PBM); Constitutional Court Decisions No. 140/PUU-VII/2009, No. 97/PUU-XIV/2016, No. 68/PUU-XII/2014, and No. 146/PUU-XXII/2024; and Supreme Court Decision No. 25 P/HUM/2020. Court decisions were included when they directly addressed religious freedom, the administrative recognition of belief, religion-related restrictions, or the review of implementing regulations relevant to the Principle of Divinity. Secondary legal materials consisted of peer-reviewed scholarship and legal textbooks. Reports from SETARA Institute and other institutions were treated solely as contextual materials to help describe implementation conditions; their use did not transform the research design into empirical field research.

The legal materials were analyzed through doctrinal identification, classification, interpretation, comparison, and synthesis. First, relevant legal norms and judicial decisions were identified and classified according to the functions of legitimation, interpretation, and control. Second, statutory provisions and the *ratio decidendi* of judicial decisions were interpreted systematically and constitutionally to assess their coherence with Pancasila, Article 29 of the 1945 Constitution, and related constitutional-rights provisions. Third, the findings were compared across regulations and judicial decisions and synthesized to answer the research question. Qualitative interpretation was used as a method of examining legal materials within doctrinal research, rather than as a substitute for an empirical qualitative methodology. The analytical framework also drew on legal-effectiveness and legal-system perspectives to explain how normative design might interact with institutional structure and legal culture (Friedman, 1975).

RESULTS AND DISCUSSION

Results

The Function of Legitimation: The Principle of Divinity as a Moral Source of Legal Formation

The function of legitimation positions the Principle of Divinity as a moral and constitutional orientation for legal formation. This article does not equate the Principle of Divinity with Kelsen's *Grundnorm*. Rather, Kelsen's *Stufenbau* is used only to explain hierarchical coherence among positive legal norms, while Pancasila—including the Principle of Divinity—is treated in Indonesian constitutional discourse as a *staatsfundamentalnorm* and *cita hukum* that provides substantive orientation for the legal order (Kelsen, 1967). Accordingly, the Principle of Divinity does not require every norm to derive from the doctrine of a particular religion; rather, it requires legal formation to remain compatible with human dignity, equality, justice, and the inclusive constitutional protection of religion and belief.

The implications of the legitimation function are evident in the 2006 Joint Ministerial Regulation (*Peraturan Bersama Menteri*, PBM). In this study, a "moral legitimacy deficit" refers to a condition in which a formally valid regulation produces or permits outcomes that are difficult to reconcile with the constitutional principles that justify its existence. The assessment uses four indicators: consistency with equality and nondiscrimination, proportionality of restrictions, protection of constitutional freedom of religion and belief, and the availability of accountable procedures and remedies. The PBM formally seeks to promote religious harmony, yet its implementation becomes normatively problematic when administrative requirements are applied in ways that give majority preferences disproportionate influence over minority rights eed for local governments to act proportionately and impartially. More recent findings suggest that the problem may even develop into a majoritarian veto, in which community support or the preferences of a dominant group effectively replace legal-administrative standards in determining whether a right can be exercised (Suryawati & Syaputri, 2022). Thus, the legitimacy inquiry concerns the relationship between formal validity and substantive constitutional justification, rather than the religious identity of the regulated community.

The Principle of Divinity requires that harmony not be interpreted as the adjustment of

minority groups to the will of the majority, but rather as a condition in which every group can exercise its religious rights while respecting the rights of others. On the basis of this analysis, the function of legitimation serves as a form of constitutional morality that requires law to possess a moral orientation beyond formal legality. However, this function has not operated optimally because of the moral legitimacy deficit evident in technical regulations such as the 2006 PBM.

The Function of Interpretation: The Principle of Divinity as an Orientation for Judicial Interpretation

The function of interpretation concerns the use of the Principle of Divinity in legal reasoning, legal discovery, and adjudication. Dworkin distinguishes rules from principles and argues that principles carry moral weight in hard cases. His conception of law as integrity therefore requires judges to interpret the law as a coherent practice supported by the best available moral justification (Dworkin, 1986). Hart's rule-of-recognition framework likewise permits a legal system to incorporate moral criteria when its accepted sources of law make them relevant (Hart, 1961). In the Indonesian context, the Principle of Divinity must therefore be interpreted alongside the rule of law, equality, and constitutional rights, rather than as an isolated or sectarian command.

Constitutional Court Decision No. 97/PUU-XIV/2016 reviewed Articles 61(1)–(2) and 64(1) and (5) of the Population Administration Law. The Court granted the petition and held, in substance, that the statutory term "religion" could not constitutionally be interpreted to exclude "belief" from population-administration records. Its reasoning linked administrative recognition to equality, legal certainty, and the constitutional freedom to hold a belief. Constitutional Court Decision No. 140/PUU-VII/2009 reviewed Law No. 1/PNPS/1965 on the Prevention of Religious Abuse and/or Defamation. The Court rejected the petition, maintaining the statute within a constitutional framework that permits proportionate restrictions for public order and the protection of the rights of others. Constitutional Court Decision No. 146/PUU-XXII/2024 concerned challenges to provisions of the Population Administration Law, the Marriage Law, the Criminal Code, and related legislation in connection with an asserted right not to profess a religion. The Court declared the challenge to Article 302(1) of the Criminal Code inadmissible and rejected the remainder of the petition. Read together, these decisions illustrate different judicial approaches to administrative equality, restrictions on religious expression, and the constitutional position of religion. This variation supports the analysis of the interpretation function, but it does not, by itself, establish institutional inconsistency unless the different objects of review, constitutional questions, and operative holdings are also taken into account.

Table 1
Comparison of Argumentation Patterns of Three Constitutional Court Decisions

Decision	Object of Review	Value Prioritised	Outcome Orientation
97/PUU-XIV/2016	Population Administration Law, Arts. 61 and 64	Equality, non-discrimination, and freedom of belief	Petition granted; administrative recognition extended to adherents of belief
140/PUU-VII/2009	Law No. 1/PNPS/1965 on religious abuse/defamation	Religious freedom, public order, and rights of others	Petition rejected; statutory framework maintained
146/PUU-XXII/2024	Population Administration, Marriage, Criminal Code, and related provisions	Religious constitutionalism and claimed freedom not to profess religion	Art. 302(1) challenge inadmissible; remainder rejected

On the basis of this analysis, the function of interpretation serves as an orientation for judicial reasoning that integrates transcendental values with human rights and the principles of the rule of law. However, this function has not operated consistently, as variation in the weight

assigned to particular arguments across decisions suggests the absence of sufficiently consistent criteria for balancing the Principle of Divinity against individual constitutional rights.

The Function of Control: The Principle of Divinity as a Parameter for Norm Review

The function of control places the Principle of Divinity within the constitutional parameters used to assess the validity of lower-level norms. Kelsen's hierarchical model is relevant here only insofar as it requires lower-level legal norms to remain consistent with superior norms. In Indonesia, this coherence is institutionally maintained through constitutional and judicial review under the 1945 Constitution of the Republic of Indonesia and legislation governing lawmaking (Kelsen, 1967). The control function is therefore not a license to impose sectarian doctrine, but a mechanism for testing whether lower-level norms remain compatible with constitutional morality, equality, religious freedom, and lawful limitations on rights.

Supreme Court Decision No. 25 P/HUM/2020, which reviewed the validity of the 2006 PBM, illustrates that problems concerning religious freedom extend beyond the legislative level to judicial review of regulations below the level of statutes. It also demonstrates the layered structure of judicial review in Indonesia, in which the Constitutional Court and the Supreme Court exercise distinct review functions. Although the control function is formally available, its operation appears selective. The Constitutional Court's approach to administrative equality, as illustrated by Decision No. 97/PUU-XIV/2016, differs from its approach to substantive restrictions on religious expression in Decision No. 140/PUU-VII/2009. This difference in responsiveness may be related to the nature of the issues involved: administrative distinctions may be easier to correct through textual interpretation, whereas restrictions justified in the name of public order implicate broader areas of state discretion and may be more difficult to subject to strict scrutiny.

The limitations of the control function are also evident in the continuing controversy surrounding blasphemy enforcement. SETARA Institute recorded 15 blasphemy-related cases in 2023 and 42 in 2024 (SETARA Institute, 2024, 2025). This subsequent increase cannot be causally attributed to Constitutional Court Decision No. 140/PUU-VII/2009. Rather, it serves as contextual evidence that religion-related restrictions remain a significant implementation issue after the Court upheld the statutory framework. The doctrinal conclusion is therefore narrower: judicial review formally provides a control mechanism, but the practical protection afforded by that mechanism must still be evaluated against subsequent regulatory and enforcement patterns.

Analysis of the Gap between Norms and Practice (Das Sollen and Das Sein)

Six indicators of *das sollen* can be identified on the basis of Pancasila, the 1945 Constitution of the Republic of Indonesia, and related legislation: the constitutional position of the state as founded on belief in the One and Only God; the state's obligation to guarantee freedom of religion; every person's freedom to hold a belief; the status of freedom of religion as a constitutional right that cannot be arbitrarily restricted; the guarantee of equality and the prohibition of discrimination; and the principle that restrictions on rights may be imposed only by law and for constitutionally justified purposes.

Table 2
Data on Violations of Freedom of Religion and Belief 2023–2025

Year	Number of Incidents	Number of Violation Acts	Blasphemy Cases
2023	217	329	15
2024	260	402	42
2025	221	331	Not used as an indicator in this study

These data indicate that constitutional guarantees do not automatically translate into effective protection in practice. Geographic disparities also persist: West Java Province has consistently ranked among the provinces with the highest numbers of violations of freedom of religion and belief (*kebebasan beragama dan berkeyakinan*, KBB) over the past decade.

Using Soerjono Soekanto's legal-effectiveness framework, the gap can be analyzed in

terms of legal substance, law enforcement, facilities and infrastructure, society, and legal culture (Soekanto, 2018). The legal factor primarily affects legitimation because inconsistencies between constitutional guarantees and technical regulations can weaken substantive justification. The law-enforcement factor affects interpretation because officials and judges may assign different weights to constitutional values. Facilities and access to remedies affect control because rights cannot be effectively protected without accessible institutional mechanisms. Social and cultural factors influence all three functions when harmony is understood as uniformity rather than equal coexistence.

Friedman's legal-system framework provides a parallel explanation (Friedman, 1975). Legal substance shapes legitimation because the content of norms determines whether constitutional values are translated coherently. Legal structure shapes interpretation and control because institutional capacity affects the consistency of adjudication and review. Legal culture influences all three functions because the attitudes of officials and communities determine how formal guarantees operate in practice. These theories serve as explanatory lenses for understanding the implementation context, while the legal conclusions themselves remain grounded in statutes, constitutional norms, and judicial decisions.

Table 3
Matrix of the Das Sollen and Das Sein Gap per Function

Function	Das Sollen	Das Sein	Causal Factor (Soekanto/Friedman)
Legitimation	The Principle of Divinity becomes the moral basis of legal formation	PBM 2006 experiences a deficit of moral legitimacy due to rigid administrative implementation	Legal factor / legal substance
Interpretation	Judicial interpretation integrates Divinity with human rights consistently	Variation in the weight of argumentation between Constitutional Court decisions (see Table 1)	Law enforcement factor / legal structure
Control	Judicial review maintains the consistency of norms with the Principle of Divinity	Judicial control tends to be selective and maintains the status quo in blasphemy cases	Facilities-infrastructure factor / legal structure

The principal problem in the national legal order, according to this analysis, does not lie in the absence of the Principle of Divinity from the legal system, but in the inconsistent translation of constitutional values. The principle is not always carried coherently from the philosophical and constitutional levels into regulation, institutional interpretation, and practice. The three functions therefore encounter different forms of distortion at the stages of legal formation, application, and review. This conclusion is an analytical inference drawn from the doctrinal comparison; it should not be interpreted as a statistical or causal claim about the incidence of violations of religious freedom.

Comparative Study with Malaysia

Malaysia is selected as a focused comparator because it combines three features that make the comparison analytically useful: constitutional recognition of religion, a multireligious society, and a federal allocation of substantial religious authority to the states. This differs from Indonesia's unitary constitutional structure and allows the analysis to examine whether tensions between religious constitutional values and minority-rights protection arise exclusively from Indonesia's regulatory architecture or also occur under a different institutional design. The comparison is therefore functional rather than comprehensive; it does not claim that Malaysia is the only or universally optimal comparator.

The comparison indicates that constitutional recognition of religion does not eliminate the

need for clear limits on administrative discretion and majority influence. Malaysia's Federal Constitution protects freedom of religion while also assigning Islam a distinctive constitutional position and granting the states substantial authority over Islamic matters. For this study, the comparative value lies in demonstrating that the three-function framework must account for institutional design: legitimation depends on the constitutional source of authority, interpretation depends on how courts reconcile religious provisions with rights, and control depends on the availability and scope of review mechanisms. This finding refines the concept of inconsistency in value translation by showing that failures may occur through different institutional pathways rather than through a single centralized model.

Implications for Legal Certainty and Substantive Justice

Legal certainty requires citizens to have a reasonably clear understanding of what is permitted, prohibited, and procedurally required. A concrete illustration is Governor Regulation of Nanggroe Aceh Darussalam No. 25 of 2007, Article 3(2), which required at least 150 prospective users and support from at least 120 local residents for the establishment of a house of worship, thereby exceeding the numerical thresholds established under the 2006 Joint Ministerial Regulation. This comparison demonstrates how subnational regulations may impose additional burdens and therefore require review for consistency with superior norms and constitutional rights. In this context, the Principle of Divinity strengthens legal certainty only when translated into nondiscrimination, equality before the law, proportionality, transparent procedures, and accountable administration.

Substantive justice extends beyond procedural assessment to encompass the outcomes of legal application. Constitutional Court Decision No. 97/PUU-XIV/2016 illustrates a shift from formal to substantive justice because the Court corrected discriminatory consequences arising from the applicable administrative provisions. In light of this decision, the rights of minority groups must not depend entirely on majority approval. Making such approval an absolute condition would reduce constitutional rights to mere privileges.

Legal certainty and substantive justice can be bridged through a sequence of values: divinity, humanity, equality, certainty, and justice. The Principle of Divinity provides moral orientation; the value of humanity places human dignity at the center of legal protection; equality ensures nondiscriminatory treatment; legal certainty provides clear and predictable standards; and justice ensures that the application of law produces fair and dignified outcomes. On the basis of this framework, the gaps in the three functions of the Principle of Divinity have direct implications for legal uncertainty and substantive injustice, making continuous legal harmonization necessary.

Six-Stage Harmonization Model: The Proposed Solution

Based on the foregoing analysis of the gaps across the three functions, this study proposes a six-stage harmonization model, summarized in Table 4.

Table 4
Six-Stage Harmonization Model and Success Indicators

Stage	Stage Name	Description	Success Indicator
1	Value	Belief in the One and Only God as a source of moral orientation	The Principle of Divinity is accepted across religious groups as a shared moral orientation
2	Constitutionalization	Values translated through Pancasila and the 1945 Constitution of the Republic of Indonesia	Consistency between Articles 29, 28E, 28I, and 28J in constitutional practice
3	Legislation	Constitutional values translated into laws and implementing regulations	Draft regulations pass constitutional value assessment

4	Interpretation	Judges and officials apply values in understanding law	Court decisions consistently place Divinity as an inclusive value
5	Control	Deviating norms are tested through judicial review	Deviating norms are corrected through judicial review
6	Empirical Evaluation	Legal implementation is evaluated based on its impact	Violation data decreases and dispute resolution improves

This model expands the scope of conventional legal-harmonization literature, which generally focuses on legislation and review, by explicitly incorporating the stages of value formation, constitutionalization, interpretation, and empirical evaluation. The six-stage harmonization model directly addresses the diagnosis of inconsistency of value translation. If the gap arises from distortions in the translation of values at successive stages, the solution is not merely to correct one stage—for example, by revising the 2006 PBM—but to ensure that value translation remains coherent from the initial value stage through empirical evaluation, with measurable success indicators at each stage. This model can serve as a continuous evaluation instrument for legislators, local government officials, judges, and independent monitoring institutions such as SETARA Institute and Komnas HAM.

Discussion

The overall findings show that the role of the Principle of Divinity in Indonesia's national legal order cannot be understood solely through its textual presence in Pancasila and the 1945 Constitution of the Republic of Indonesia. This principle acquires juridical significance when it is consistently translated into norm formation, legal interpretation, and norm-review mechanisms. The findings concerning the functions of legitimation, interpretation, and control show that the three functions form an interdependent sequence: legitimation provides a value orientation for legal formation, interpretation determines how those values are applied in concrete cases, and control ensures that legal products and their application remain within constitutional boundaries. The position of Pancasila as a fundamental source within the state administration system therefore cannot be adequately understood solely in hierarchical or formal terms; it must also be reflected in the substance of law and the practice of state administration (Roky Huzaeni, 2022). This perspective is consistent with the argument that the constitutionalization of religious values in Indonesia raises distinct problems when the concept of "religious values" lacks sufficiently clear interpretive boundaries in the application of constitutional rights (Rofii & Hosen, 2022).

In this context, the research finding concerning inconsistency of value translation is important because it explains that the principal problem does not lie in the absence of recognition of the Principle of Divinity, but in the inconsistent translation of that principle across the different layers of the legal order. Normatively, freedom of religion and belief has a strong constitutional foundation. At the implementation level, however, the same value may acquire different meanings when confronted with public-order concerns, administrative requirements, majority-group aspirations, or institutional discretion.

Giri Wardana et al. (2025) show that the relationship between the principle of Belief in the One and Only God and religious freedom in Indonesian constitutionalism remains subject to interpretive ambiguity, particularly when the guarantees of freedom under Articles 28E and 29 of the 1945 Constitution of the Republic of Indonesia are considered alongside restrictions under Article 28J. This condition reinforces the finding of this study that the implementation of the Principle of Divinity should be understood as a problem of consistency in value translation, rather than merely as a problem of incomplete legal norms.

In the function of legitimation, the gap is particularly evident when regulations formally intended to maintain harmony create potential obstacles to the exercise of constitutional rights in practice. The establishment of houses of worship provides an important illustration because it demonstrates how universal constitutional values may be translated into administrative procedures that depend heavily on local social conditions and community responses. Suryawati & Syaputri (2022) show that, although the right to religion and worship is constitutionally

guaranteed, minority groups continue to face difficulties in establishing houses of worship, highlighting the need for local governments to act proportionately and impartially. More recent findings suggest that the problem may even develop into a majoritarian veto, in which community support or the preferences of a dominant group effectively replace legal-administrative standards in determining whether a right can be exercised (Ananda et al., 2026). Thus, the legitimacy of a regulation cannot be assessed solely by reference to the formal authority of the body that enacted it; its conformity with equality, nondiscrimination, and constitutional rights must also be considered.

The findings concerning the function of interpretation reveal a different problem. The Principle of Divinity provides moral orientation for judges, but its abstract nature also creates considerable interpretive latitude. Therefore, the central question is not simply whether the Principle of Divinity is invoked in judicial reasoning, but how it is interpreted coherently alongside the rule of law, equality, human rights, and the protection of minority groups. Rifqi Ridlo Phahlevy (2023) argue that, in cases involving religion, the independence and neutrality of the Constitutional Court should be assessed in terms of the consistency of its legal-reasoning methodology when balancing religious values, community aspirations, and the demand for legal neutrality. Meanwhile, Rofii & Hosen (2022) show that using "religious values" as a basis for restricting rights creates interpretive difficulties because the scope of those values is not always easy to determine. These findings reinforce the conclusion of this study that variation in the weight assigned to arguments across decisions cannot be understood solely as a consequence of differences between cases; it also points to the need for more consistent interpretive criteria to prevent the Principle of Divinity from becoming an open-ended concept whose application depends entirely on judicial preferences.

The same problem is evident in the function of control. The existence of a judicial review mechanism does not, by itself, guarantee that every inconsistency between a regulation and constitutional religious freedom can be effectively corrected. The effectiveness of the control function depends substantially on judicial approaches, the structure of review, the reasoning employed, and the ability of judicial institutions to assess the concrete effects of a norm. Heryansyah & Sahid Hadi (2024), in their study of the protection of freedom of religion and belief before the Supreme Court, identify structural, substantive, and technical problems in the implementation of judicial review. Their findings suggest that norm-review mechanisms may fail to provide adequate rights protection if they are not accompanied by impartiality and a comprehensive interpretation of religious freedom. These findings are relevant to the conclusion of this study that the control function appears to operate selectively. Accordingly, the success of norm review should not be assessed merely by the availability of a review forum, but by that forum's ability to correct inconsistencies and maintain coherence between lower-level norms and the constitutional values that legitimize them.

The gap between *das sollen* and *das sein* also demonstrates that the implementation of the Principle of Divinity cannot be explained entirely by normative factors. Law operates within a social structure characterized by beliefs, power relations, perceptions of other groups, and the legal culture of officials and communities. Wahab et al. (2024) found that conflicts concerning the construction of houses of worship are influenced not only by legal, political, and social factors, but also by theological considerations and differences in religious perspectives. This helps explain why textually identical regulations can produce different outcomes across regions. The theories of legal effectiveness and the legal system are therefore relevant to the findings of this study: sound legal substance does not automatically produce effective protection if institutional structures and legal culture continue to interpret harmony as uniformity or treat majority preferences as grounds for restricting the rights of minority groups.

On this basis, legal certainty and substantive justice should be understood as interrelated outcomes of the application of the Principle of Divinity. Legal certainty requires predictable procedures, clear parameters, and defined limits on discretion, while substantive justice requires that the application of those procedures not produce discrimination. Regulations that formally apply equally to all citizens do not necessarily produce just outcomes if their requirements allow majority groups to determine whether other groups can exercise their constitutional rights.

Ananda et al. (2026) emphasize the importance of minimum procedural standards, reasoned administrative decisions, clear objection mechanisms, and restrictions on discretion based on objective indicators. These measures demonstrate the importance of connecting substantive rights with the design of implementation procedures. Thus, within the framework of the rule of law, the Principle of Divinity should function as a constitutional value that inclusively protects human dignity, rather than as a basis for legitimizing the domination of one religious group over another.

Taken together, the findings both confirm and refine previous scholarship. They confirm studies showing that regulations governing houses of worship can create disproportionate barriers for minority communities Suryawati & Syaputri (2022) and that judicial protection of religious freedom may vary according to institutional and doctrinal contexts (Rifqi Ridlo Phahlevy, 2023). They depart from approaches that treat these issues separately by demonstrating that regulatory design, judicial interpretation, and norm review are successive stages in a single process of value translation. The six-stage harmonization model is derived from this sequence: constitutional values provide the normative starting point; legislation operationalizes them; interpretation applies them to disputes; control reviews deviations; and empirical evaluation assesses whether implementation reflects constitutional commitments. The comparative and case analyses therefore refine the model by showing that failures at one stage can carry over to subsequent stages, while correction at a later stage may partially restore coherence.

Thus, this discussion affirms that the principal contribution of the study lies in shifting the analytical focus from whether the Principle of Divinity exists in the legal order to how consistently that principle is translated and operationalized at every stage of legal development and application. The Principle of Divinity has a strong philosophical and constitutional foundation, but that normative strength will produce legal certainty and substantive justice only if supported by nondiscriminatory regulations, coherent judicial interpretation, effective control mechanisms, and a legal culture that respects diversity. Within this framework, Belief in the One and Only God functions not as a sectarian religious norm, but as a constitutional orientation connecting legal morality, respect for human dignity, equality, and justice within Indonesia's national legal order.

CONCLUSION

This study concludes that the Principle of Divinity operates within Indonesia's national legal order through three interrelated functions. Legitimation requires legal formation to remain substantively compatible with human dignity, equality, and constitutional religious freedom. Interpretation requires courts and public officials to integrate the Principle of Divinity with the rule of law and constitutional rights. Control requires review mechanisms to assess lower-level norms against those constitutional commitments. The principal difficulty is not the absence of the Principle of Divinity from the legal order, but its inconsistent translation across regulatory design, institutional interpretation, and norm review. The analysis of regulations governing houses of worship and selected Constitutional Court and Supreme Court decisions shows that formal legal validity does not automatically ensure substantive consistency or equal protection of rights.

Conceptually, this study contributes a three-function framework, a diagnosis of inconsistency of value translation, and a six-stage harmonization model linking value formation, constitutionalization, legislation, interpretation, control, and empirical evaluation. In policy terms, this framework supports constitutional-value assessments of religion-related regulations, clearer limits on administrative discretion, more coherent judicial reasoning, and accessible review mechanisms. The study is limited by its doctrinal design, its selective set of judicial decisions, and its use of institutional monitoring reports as contextual secondary evidence. Future research should test the framework through broader comparative case mapping and empirical examination of how regulations and judgments are implemented by local governments, courts, and affected communities.

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AUTHOR CONTRIBUTION STATEMENT

Ongen Michel Timisela contributed to the conceptualization, legal research, data collection, formal analysis, and preparation of the original manuscript. Marthinus Johanes Saptenno contributed to the conceptual development, supervision, validation, and critical review of the manuscript. Renny Heronia Nendissa contributed to the methodology, legal analysis, validation, and review and editing of the manuscript. All authors participated in discussing the findings, approved the final version of the manuscript, and agreed to be accountable for the accuracy and integrity of the work.

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