

Harmony of Pancasila Values and the Principle of Religious Moderation in Criminal Law Reform in Indonesia

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Abstract: This study examines the alignment between Pancasila values and religious moderation in Indonesia's criminal law reform. The old Criminal Code, inherited from the colonial era, has been criticized for its lack of social justice and religious freedom. The key problem addressed is how the new Criminal Code can embody Pancasila values while preventing religious radicalism and extremism. Observations focus on articles in the old code that are seen as unresponsive to human rights and plurality. A juridical-normative approach is employed, analyzing the new Criminal Code's relationship with Pancasila and religious moderation principles. The analysis includes primary legal documents, such as the new Criminal Code, and relevant secondary literature. Philosophical, historical, and normative methods are used to develop legal logic aligned with Pancasila, aiming to solve the problem of religious intolerance. The results indicate that the new Criminal Code introduces significant reforms to protect religious freedom, focusing on preventing radicalism and enhancing rehabilitative sanctions. These reforms represent a major step towards a more inclusive and just legal system. The conclusion drawn is that the new Criminal Code is expected to harmonize criminal law with Pancasila values and religious moderation, providing more humanistic and preventive approaches to religious issues. This research contributes by offering a new perspective on criminal law reform that emphasizes national values and presents a legal model more suited to Indonesia's diverse society.

Keywords: Criminal Law Reform; Pancasila; Religious Moderation.

1. Introduction

Indonesia, as a country based on Pancasila, has an obligation to ensure that all aspects of people's lives, including criminal law, are in line with the values contained in the national ideology (Kamalludin, 2022; Rahmatyar & Rosikhu, 2024). Pancasila, as the basis of the state, is not only a guideline for government and the drafting of laws but also must be reflected in the protection of citizens' rights and social justice. Criminal law, which functions as a tool to uphold order and justice, must reflect Pancasila values such as a just and civilized humanity, Indonesian unity, and social justice for all Indonesian people (Syam, 2024).

Over the years, Indonesia's criminal law system, particularly in the Criminal Code (*Kitab Undang-Undang Hukum Pidana/KUHP*), has received criticism for not fully reflecting the values of Pancasila. Some articles in the old Criminal Code were considered inadequate in providing protection for human rights, as well as being less responsive to social changes and increasingly pluralistic societal dynamics (Salam et al., 2024). Therefore, there is an urgent need to reform the criminal law to be more in line with the principles contained in Pancasila, as well as more responsive to the needs and challenges of modern society.

Pancasila, which consists of five precepts, is the basis of the ideology of the Indonesian state which is a guideline in the life of the nation and state. The five precepts are the One Godhead, Just and Civilized Humanity, Indonesian Unity, People's Sovereignty Led by

Wisdom in Deliberation/Representation, and Social Justice for All Indonesian People (Karindra, 2024). Pancasila reflects fundamental values that must be integrated into all aspects of government and society, including in the legal system.

In the development of criminal law in Indonesia, the implementation of Pancasila values and religious moderation is the main concern in the reform of the criminal law, especially after the introduction of the new Criminal Code. The new Criminal Code is designed to reflect the values of Pancasila, especially in relation to the protection of religious freedom and a fairer and more moderate legal settlement. However, while these reforms aim to correct various problems in the previous criminal justice system, some important challenges remain, especially in the application of these principles in reality (Wijaya et al., 2024).

One of the problems that arise is the potential for abuse of articles related to blasphemy. Although the new Criminal Code is expected to suppress religion-based discrimination and balance the rights to religious freedom, there are still concerns that new punishment mechanisms, such as rehabilitation and social reintegration, are not necessarily effective in addressing the root causes of religious radicalism. Furthermore, there is ambiguity in the application of religious moderation values in various cases involving religious conflicts, especially in the context of religious plurality in Indonesia (Faisal et al., 2024).

The importance of religious moderation in Indonesia is also reflected in how the state regulates inter-religious relations. As highlighted by As'ad et al. (2023), the government's politics and major Islamic organizations play a crucial role in shaping religious moderation, which directly impacts legal reforms in this area. Criminal law plays an important role in enforcing religious moderation, for example by enacting laws that protect against hate speech and religious-based violence, radicalism, and ensuring that every individual's religious rights are respected and protected (Silfiah et al., 2024). Therefore, criminal law reform needs to strengthen these protections and ensure that the law is not used to restrict religious freedom or oppress certain groups.

The urgency of reform in criminal law, in essence, starts from improving the substance of criminal law, which is reflected through the Criminal Code, which has become an important topic in legal and public policy discussions. The current Criminal Code is still heavily influenced by colonial heritage and is less responsive to the social, cultural, and cultural developments that develop in Indonesia (Yoserwan, 2023). Many articles in the old Criminal Code were considered incompatible with the principles of social justice, human rights, and respect for religious and cultural diversity.

The reform of the Criminal Code not only aims to update the criminal law to better suit contemporary conditions, but also to ensure that Indonesia's criminal law reflects the values of Pancasila and the principles of religious moderation. These include introducing more humane and rehabilitative alternative forms of punishment, strengthening protections for vulnerable groups, and ensuring that the law is not used as a tool to oppress or restrict freedom of religion and expression (Tongat, 2024).

By adopting a more inclusive approach and respecting diversity, the reform of the Criminal Code is expected to strengthen the legal foundations of a fair and just law, as well as support the development of a harmonious and peaceful society in Indonesia. This reform is also expected to strengthen the legitimacy of the law in the eyes of the public and ensure that Indonesia's criminal law system is in line with the country's underlying national values (Sirjon et al., 2024).

Various previous studies have explored the relationship between criminal law in Indonesia and the values of Pancasila, as well as its implications for law enforcement and

social justice (Kadir et al., 2024). For example, a study highlighted how several articles in the old Criminal Code were not in line with the principles of justice and humanity in Pancasila (Ilyas & Nursal, 2016), especially in terms of handling human rights. Other research, such as that conducted by Barda Nawawi Arief evaluate a more repressive criminal approach in the old Criminal Code, which often ignores the principles of rehabilitation and social reintegration for offenders) (Arief, 2012).

In contrast to previous research, this new study not only reviews the alignment of Pancasila values in the new Criminal Code, but also includes an in-depth analysis of religious moderation as an important element in criminal law reform (Rahmawati, 2024). This study seeks to examine how the new Criminal Code adopts the principles of religious moderation to strengthen the protection of religious rights and prevent discrimination based on religion. In addition, this research also highlights innovations in types of criminal acts, forms of punishment, and criminal policies that are more inclusive and humane, in line with the values of Pancasila (Isnawan, 2024).

This recent research has made several significant contributions to the field of criminal law and policy studies in Indonesia. First, this research provides a more comprehensive understanding of how Pancasila values are integrated in the reform of the Criminal Code, covering aspects of justice, humanity, unity, democracy, and social justice (Adiasih & Sarmono, 2024). By highlighting the harmonization between criminal law and national ideology, this study emphasizes the importance of aligning the law with the nation's cultural and moral identity.

Second, this study adds a new perspective by exploring the concept of religious moderation in the context of criminal law. This is an important contribution in facing the challenges of religious plurality and cultural diversity in Indonesia. This research shows how religious moderation can be used as a framework to develop more inclusive laws, which protect religious freedom and prevent discrimination or intolerance based on religion (Marzuki, 2023).

Third, this study offers a critical analysis of reforms in the types of criminal acts, types of crimes, and penal approaches in the new Criminal Code. By evaluating these changes, the study highlights legislators' efforts to create a more humanist and rehabilitative legal system, one that focuses on social reintegration and rehabilitation rather than just punishment (Oktarina et al., 2023). This makes an important contribution in supporting a fairer and more progressive criminal policy in Indonesia.

Overall, this study aims to explore whether the reform of the criminal law implemented through the new Criminal Code can really overcome the challenges that exist in aligning the values of Pancasila with religious moderation. The focus of this research is to analyze how this new legal system functions in the context of human rights protection, religious freedom, and the achievement of social justice, in accordance with the spirit of Pancasila. Thus, this research is expected to provide relevant recommendations for the implementation of more effective and inclusive criminal law policies (Soedirjo & Jaya, 2023).

2. Methods

This study uses a juridical-normative approach to analyze the alignment between the new Criminal Code with the values of Pancasila and the concept of religious moderation in Indonesia (Marzuki, 2016). The use of conceptual, philosophical, historical, and legislative approaches in this paper involves the study of the Old Code and the New Code as primitive legal material, including laws, regulations, and others official documents, to understand the

applicable legal norms and how they reflect the ideological values held by the nation (Mukti, 2022). In addition, secondary legal materials include the analysis of this research such as books, academic journals, and scientific articles that discuss Pancasila, religious moderation, and criminal law reform. Critical analysis of these sources was conducted to identify important changes in the new Criminal Code that contributed to the research objectives. Through this approach, this research aims to provide an in-depth understanding of the normative aspects of criminal law reform in Indonesia and how national values are reflected in those legal policies.

3. Discussion

3.1 Principles of Religious Moderation in the Context of Criminal Law Reform: Combating Intolerance, Radicalism, Extremism, and Terrorism

Religious moderation is the concept that underlies harmonious religious life in Indonesia, in accordance with the spirit of Pancasila (Mukhibat, 2024). This concept gains stronger foundation when viewed from a legal pluralism perspective, as Hosen (2022) argues that religious freedom in Indonesia's pluralistic society requires careful balancing between state law and religious norms. In the context of criminal law, the principle of religious moderation refers to the application of laws that not only prevent religious extremism but also ensure the protection of the rights to freedom of religion (Subchi, 2022). This principle emphasizes the importance of striking a balance between freedom of expression and respect for the religious beliefs of others (Azra, 2022). This concept is expected to be the foundation for regulating criminal acts related to religion, such as Intolerance, radicalism, extremism, and religion-based terrorism, to avoid abuse of the law that can lead to injustice or discrimination.

In this study, the principle of religious moderation contains several main principles, namely inclusivity, balance, and tolerance (Azra, 2022). Inclusivity refers to openness to the diversity of religious interpretations in a pluralistic society. Balance means that the application of the law must be proportionate, so as not to suppress religious freedom under the pretext of law enforcement. Tolerance is the main value that ensures that in carrying out criminal law, both the rights of individuals and the rights of religious communities are respected. Thus, religious moderation can be a guideline in handling legal conflicts involving religious issues, so as not to violate the principles of social justice regulated by Pancasila (Septiningsih, 2023).

In the reform of the Criminal Code, religious moderation is one of the foundational principles to counter intolerance, radicalism, extremism, and terrorism (Syawalina, Suparno, & Budianto, 2023). The old Criminal Code, especially Article 156a on blasphemy, was frequently used to restrict freedom of religion and expression in ways that conflict with the principles of social justice and a just and civilized humanity (Undang-Undang Republik Indonesia Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana, 2023). These provisions are often applied with subjective interpretations, raising the risk of legal abuse and creating uncertainty in jurisprudence.

This problem is not unique to Indonesia. As observed by Cheesman (2023) in comparative post-colonial studies, many former colonial states struggle to decolonize criminal laws that were designed more for control than for justice. A similar dynamic appears in recent discourse about *maqāṣid-al-sharī'ah*-based reform, which advocates shifting from textualist, punitive paradigms toward more just, rehabilitative, and human-dignity-based legal systems (Suud, 2025).

Recent empirical and normative legal research in Indonesia also supports the need for moderation and reform. For example, Natamiharja, Siswanto, Banjarani, & Setiawan (2023) argue for restorative justice approaches in blasphemy law enforcement to soften harsh sanctions and incorporate community mediation. In addition, Hasani & Halili (2023) discuss how human rights and constitutional issues arise from the ambiguities in blasphemy law, especially affecting religious minorities (Ismail Hasani & Halili, 2023). These abuses risk triggering social tension and deepening segregation among religious communities, which undermines national unity and harmony (Rasdi et al., 2022). Similar problems arise in the application of Articles 154 and 155 which regulate contempt of the government or state institutions (Faisal et al., 2023). These articles are often used to restrict freedom of opinion and criticism of the government, which is actually a fundamental right in a democratic country (Bawono et al., 2023). The application of such laws is often used to suppress dissent, which is important for healthy political dynamics in democratic countries (Kholiq et al., 2023), and obstruct the fundamental right to expression, (Febrianty, Wijaya, et al., 2023) which should be protected based on the values of Pancasila. This shows that the old Criminal Code not only did not support religious moderation but also hindered the development of the principles of democracy and social justice in Indonesia.

On the other hand, the old Criminal Code also tends to be rigid in terms of punishment. The main emphasis on prison sentences as the dominant sanction without considering rehabilitation or social reintegration reflects a more repressive approach than humanist. This is not in accordance with the principles of social justice and just civilized humanity promoted by Pancasila. In a country that upholds religious moderation, the criminal justice system should support the reintegration of lawbreakers into society, by offering rehabilitative and restorative solutions (Kamalludin & Arief, 2018). This approach not only punishes but also seeks to improve behavior and create opportunities for individuals to contribute back to society, thus creating a more inclusive and tolerant social environment (Fadhil, 2023).

Overall, the reform of the Criminal Code in Indonesia aims to align the values of Pancasila with religious moderation in dealing with various problems such as intolerance, radicalism, extremism, and terrorism (Febrianty, et al., 2023). These reforms are urgently needed to avoid abuse of the law in blasphemy cases and to ensure better protection of the rights to freedom of religion and expression. With this reform, it is hoped that Indonesia's criminal law will be more proportionate, fair, and inclusive, thereby supporting the creation of a harmonious, moderate, and socially just society (Mahendra & Emovwodo, 2023).

3.2 Mission in Criminal Law Reform in Indonesia: Alignment of the Principles of Religious Moderation based on Pancasila Values in the new Criminal Code

The urgency of criminal law reform in Indonesia is closely related to the alignment of Pancasila values and the principle of religious moderation (Patria & Kurniawan, 2022). Its main objective is to improve the outdated legal framework, as seen in the old Criminal Code which often restricts freedom of expression and religion (Doan-Minh, 2019), especially through Article 156a concerning blasphemy. This article is susceptible to subjective interpretation and is often used to criminalize individuals with different religious interpretations. The reform of the Criminal Code is expected to be able to overcome this challenge in a more fair and humane manner (Widyawati et al., 2022).

The main mission of this reform is to create more inclusive social justice, (Anshori, 2023) reflects the humanitarian principles contained in Pancasila (Priambada &

Ishwara, 2023). This aligns with what Assyaukani and Hendrianto (2024) describe as the evolving role of Pancasila in Indonesia's constitutional democracy, where it should serve as a living philosophical foundation for all legal reforms. The restorative and rehabilitative justice approach carried out by the new Criminal Code also aims to provide opportunities for improvement for perpetrators, as well as restore damaged social relationships (Dewi & Shafira, 2023). It includes efforts to improve the justice system by focusing on reintegration, rather than mere punishment (Kamalludin & Arief, 2019).

In Indonesia's new Criminal Code, the principle of Pancasila-based religious moderation is reflected in several articles that regulate the protection of religion, belief, and freedom of religion, (Tongat, 2022) as well as in provisions against intolerance and extremism (Priambada & Ishwara, 2023). Articles regulating religious freedom and protection of religious practices are also very important. The new Criminal Code criminalizes acts that obstruct or interfere with a person's religious freedom (Widhiarto & Soerjatisnanta, 2022). This shows a commitment to the principles of the One God and the Unity of Indonesia, by ensuring that all individuals can carry out their worship in accordance with their beliefs without fear of discrimination or harassment. One example is Articles 300-302 in the Criminal Code which regulates criminal acts against religion and belief (Silalahi & Dame Panjaitan, 2023).

These articles affirm the prohibition against acts that demean, incite hatred, or discriminate on the basis of religion (Puspito & Masyhar, 2023). These actions can trigger social unrest or interreligious conflicts, which are contrary to the principles of unity and humanity that are just and civilized in Pancasila (Santriana et al., 2023). By prohibiting acts of intolerance against other religions, the new Criminal Code supports religious harmony that is in line with the principle of moderation, which is to respect and maintain the diversity of beliefs in Indonesia (Tedjokusumo & Siswanto, 2023).

In addition, Articles 303-305 which regulate criminal acts against religious life and facilities of worship also show legal efforts to protect religious freedom and maintain the safety of worship facilities (Danial, 2023). This provision protects the rights of citizens to practice their religion or beliefs peacefully, without threats or interference from other parties (Martha et al., 2023). This principle reflects the values of the One God and the Unity of Indonesia, two main pillars in Pancasila that support interreligious tolerance. (Bouwer, 2022)

In the context of combating radicalism and extremism, Article 600, which regulates the crime of terrorism, strengthens legal measures to prevent criminal acts that threaten national security and national unity. The new Criminal Code tightens the rules against individuals or groups who use religion as a tool to commit violence or acts of terror, emphasizing that such actions are contrary to the values of religious moderation and Pancasila (Budisetyowati et al., 2023).

Overall, the new Criminal Code reflects the harmony between the values of Pancasila and the principle of religious moderation through regulations that protect the right to freedom of religion, fight against intolerance, extremism, and acts that undermine social harmony (Khoyfung, 2023).

This reform underlines the importance of protecting religious freedom and efforts to promote unity in the midst of diversity, in accordance with the values of Pancasila (Suyanto et al., 2023).

With this update, it is hoped that the new Criminal Code will create a legal system that is more responsive, fair, and in line with the needs of modern Indonesian society (Akli & Abidin, 2023). The relevance of this update to the above discussion shows how

the new Criminal Code aims to strengthen the values of religious moderation and the principles of social justice, while adapting to the dynamics of social change and new legal challenges (Kamalludin, 2022).

3.3 Recommendations in the Application of the Principle of Religious Moderation Based on Pancasila Values in Criminal Law Enforcement: An Analysis of Legal System Theory

The implementation of the new Criminal Code in Indonesia requires careful preparation to ensure that the mission of Pancasila-based reform can be realized (Wahyuningsih & Iksan, 2018). Analysis based on legal system theory shows that the successful implementation of the new Criminal Code relies heavily on three main components: legal structure, legal substance, and legal culture (Horwitz et al., 1977).

The legal structure includes existing law enforcement agencies and legal processes. To implement the new Criminal Code, there needs to be training and capacity building for law enforcement officials, including judges, prosecutors, police, and lawyers, so that they understand and are able to apply the new provisions correctly. Additionally, the establishment of specialized units or departments focused on specific crimes such as cybercrime and the environment may be necessary to deal with such cases effectively. Inter-agency coordination must also be improved to ensure consistent and fair law enforcement.

The substance of the law includes the content and rules in the new Criminal Code itself. It is important to ensure that all provisions in the new Criminal Code have been properly disseminated to the entire community and law enforcement. This can be done through public education campaigns, seminars, and intensive training. In addition, there should be formal interpretation guidance that helps explain how the new provisions should be applied in practice. A clear and detailed legal substance will help prevent confusion and misunderstandings in its application.

Legal culture refers to the attitudes, values, and behaviors of the community as well as law enforcers towards the law. To support the implementation of the new Criminal Code, there needs to be a change in the legal culture that supports the principles of Pancasila, such as social justice, humanity, and unity. Communities must be involved in this process of change through ongoing legal education programs, which emphasize the importance of obeying the law and respecting human rights. Law enforcement must also be instilled with high professional ethical values to ensure that they carry out their duties with integrity and fairness.

In the context of criminal law enforcement in Indonesia, the application of the principle of religious moderation based on Pancasila values is very important to create a legal system that is fair, inclusive, and responsive to social challenges. Based on the analysis of legal system theory, here are some recommendations to strengthen the application of the principle of religious moderation in criminal law enforcement:

First, there needs to be training and capacity building for law enforcement officials and related law enforcement officials about religious moderation and Pancasila values. This training should not only cover the technical aspects of the law, but also a deep understanding of the human values, pluralism, and tolerance contained in Pancasila. According to Akhmadi, a good understanding of religious moderation can encourage law enforcement to make wiser decisions and prioritize a rehabilitative approach in handling cases related to religion (Akhmadi, 2019).

Second, the next recommendation is the development of clearer and more consistent regulations regarding crimes related to religion, such as blasphemy. More

specific arrangements can help prevent subjective interpretations and abuse of the law in law enforcement. This is important to ensure that the articles in the new Criminal Code can be implemented fairly, without curbing freedom of religion or other human rights. Research by Sumadi Pointing out that ambiguity in the law can create injustice and increase social tensions (Sumadi, 2016).

Third, to support the integration of the values of religious moderation, there needs to be closer collaboration between the government, civil society organizations (CSOs), and religious institutions. Through this collaboration, it is hoped that programs can be produced that not only educate the public about the importance of religious moderation but also develop a support network for individuals who want to get out of the influence of radicalization. This initiative can create a space for constructive dialogue, which prioritizes tolerance and mutual respect between religious groups. Research showing that collaboration between various parties is the key to creating a more harmonious and inclusive society (Walad et al., 2024).

Fourth, encouraging the application of restorative justice in criminal law enforcement is essential. Merry and Stern (2023) show that in plural legal systems such as Indonesia, restorative justice can serve as a bridge between formal state law and community-based dispute resolution mechanisms, thereby creating more sustainable and socially accepted solutions. This approach not only imposes sanctions on offenders but also prioritizes the restoration of social relationships and the rehabilitation of offenders. Law enforcement practices that integrate these aspects align with the values of Pancasila, particularly the principle of a just and civilized humanity, and have the potential to reduce recidivism rates in the future. Similarly, Capera (2021) emphasizes that restorative justice offers more holistic outcomes and facilitates the social reintegration of offenders into their communities.

Overall, the application of the principle of religious moderation based on Pancasila values in criminal law enforcement requires commitment from all parties, including the government, law enforcement officials, civil society, and religious institutions. By implementing these recommendations, it is hoped that the legal system in Indonesia can create an environment that supports tolerance, harmony, and justice for all citizens.

4. Conclusion

Criminal law grounded in Pancasila must embody social justice, just and civilized humanity, and the protection of human rights, particularly regarding religious freedom. The new Indonesian Criminal Code introduces important reforms that reflect these values, including fairer provisions on discrimination and hate speech and the adoption of rehabilitative sanctions such as social work. These reforms are expected to strengthen religious moderation by curbing extremism and intolerance while fostering interreligious dialogue and tolerance. Nevertheless, challenges remain consistently applying the principle of religious moderation, especially in cases related to blasphemy and radicalism. Therefore, the reform of the Criminal Code is not only aimed at overcoming the potential misuse of provisions in the old code but also at ensuring stronger protection of religious freedom and building a legal system that is inclusive, fair, and responsive to Indonesia's evolving social dynamics.

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