International Journal of Educational Review, Law & Social Sciences (IJERLAS)

International Journal of Educational Review, Law And Social Sciences (IJERLAS Journal) | ISSN (e): 2808-487X
Volume 5 No. 2 (2025)

# THE INTEGRATION OF DIVINE JUSTICE IN JUDICIAL REASONING WITHIN THE INDONESIAN CRIMINAL JUSTICE FRAMEWORK

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| Received | : 23 January 2025 | Published | : 30 March 2025 |
| Revised | : 11 February 2025 | DOI | : https://doi.org/10.5281/zenodo.22199344 |
| Accepted | : 16 March 2025 | Link Publish | : https://radjapublika.com/index.php/IJERLAS/article/view/1093 |

**Abstract**

How can religious values be integrated into judicial reasoning in criminal cases without compromising legal certainty, evidentiary requirements, and the protection of the parties' rights? This article examines the relationship between intersubjectivity, Pancasila values, and judicial reasoning in advancing religious justice within Indonesia's criminal justice system. Employing doctrinal and philosophical legal research, the article adopts statutory and conceptual approaches, drawing on legal literature and secondary analyses of criminal cases. The findings indicate that intersubjectivity can facilitate the examination of arguments presented by the parties but cannot replace legally admissible evidence and judicial conviction as required under the Indonesian Code of Criminal Procedure (*KUHAP*). Judicial decisions should incorporate legal, sociological, and philosophical considerations supported by clear and legally defensible reasoning. Biomijuridika serves as a conceptual framework linking belief in God with respect for human dignity without privileging any particular religious interpretation. The judicial pardon provisions of Law No. 1 of 2023 are examined as prospective sentencing reforms, distinct from acquittals and judgments releasing defendants from all legal charges. The article recommends developing guidelines for judicial pardons and strengthening training in ethical judicial reasoning, with due regard for legality, judicial independence, equality, and victims' interests.

**Keywords :** Religious Justice; Judicial Reasoning; Rechterlijk Pardon; Criminal Justice System.

## INTRODUCTION

Judicial decisions within Indonesia's criminal justice system represent the final outcome of legal proceedings intended to maintain public order while safeguarding citizens' human rights. The criminal justice system operates primarily through written legal provisions enacted and codified by the state to provide legal certainty and an orderly process for those seeking justice. Developments in judicial practice have nevertheless prompted public discussion about the relationship between statutory provisions and the substantive considerations underlying decisions rendered by judicial panels.

Public perceptions of case outcomes can affect confidence in the judiciary, particularly when judicial decisions are seen as placing greater emphasis on procedural compliance than on substantive justice. Legal scholarship has examined these concerns through cases involving defendants' rights and differences in sentencing outcomes, without treating every sentencing difference as evidence of injustice. Studies of aggravating and mitigating circumstances emphasize the importance of judicial reasons that can be examined and assessed, rather than evaluations driven by public attention (Nurhafifah & Rahmiati, 2015). This article considers these issues as part of the legal context for assessing judicial reasoning. Comparisons between cases must account for the elements of the offence, degree of culpability, harm caused, and individual circumstances of offenders before concluding that sentencing disparities are unjustified. Accordingly, efforts to improve judicial reasoning should focus on the transparency of judicial considerations and the protection of the parties' rights, rather than assuming that sentencing practices generally disregard society's understanding of justice (Dilla & Yuherman, 2020).

The handling of different types of criminal cases demonstrates the importance of improving methods of judicial legal interpretation and law-finding (*rechtsvinding*) when formulating the reasons for decisions. Public confidence in the judiciary has also been discussed in relation to positivist approaches to law, giving rise to arguments for greater consideration of religious and humanistic values. In Indonesia, the principle of the supremacy of law should not be confined to certainty derived from statutory texts but should also be understood in relation to the pursuit of spiritual justice for all members of society (Maroni & Ariani, 2018). Criminal policy reform (*penal policy*) calls for the

development of a national criminal law system that accommodates customary norms, religious teachings, and principles of humanity (Najih, 2018). Judicial reasoning therefore requires a clear approach that considers not only compliance with trial procedures and the imposition of sanctions but also the restoration of victims' rights.

Improvements in judicial interpretation are necessary to ensure that the application of criminal law gives due consideration to victims' protection and defendants' rights. This perspective does not regard legal procedures as obstacles to justice, since procedural safeguards also protect individuals against arbitrary decisions. The challenge is to reconcile compliance with the law and forms of restoration that can be legally justified. For example, in cases of sexual violence, Law No. 12 of 2022 provides provisions governing the handling of cases, the protection of victims, and their recovery, which must be considered alongside applicable sentencing provisions. Philosophical considerations may inform the interpretation of these provisions but cannot replace evidentiary requirements or the legal basis for imposing criminal sanctions.

Academic debate has also addressed particular sentencing policies, including chemical castration. This measure has generated continuing discussion in legal scholarship and criminal justice practice. The central concerns involve the relationship between criminal sanctions, human rights protection, and more humane measures for victims' recovery. These considerations are relevant to ensuring that criminal policy remains consistent with the Pancasila principle of just and civilized humanity (Pambudhi & Chaerunnisaa, 2021; Yuningsih et al., 2020). Reform of criminal law, whether concerning substantive provisions, institutions, or legal culture, should also take account of the principle of belief in God so that judicial decisions remain attentive to justice within society (Widyawati et al., 2022).

As holders of judicial authority, judges have a constitutional responsibility to adjudicate cases while taking account of legal values and the sense of justice prevailing in society, rather than limiting their reasoning to the wording of statutes. The 1945 Constitution of the Republic of Indonesia guarantees judicial independence in the administration of law and justice. Article 2(1) of Law No. 48 of 2009 on Judicial Power establishes that judicial proceedings shall be conducted *"Demi Keadilan Berdasarkan Ketuhanan Yang Maha Esa"* ("For the Sake of Justice Based on Belief in the One Almighty God") (Komisi Yudisial Republik Indonesia, 2018). This formal declaration appears in court judgments, including criminal judgments imposing sentences, as required by Article 197(1)(a) of Law No. 8 of 1981 on the Code of Criminal Procedure (*Kitab Undang-Undang Hukum Acara Pidana*, *KUHAP*). Its inclusion is not merely an administrative requirement but also reflects the foundational values of Pancasila, which recognize belief in God as a principle underlying the administration of justice (Djatmiko, 2022). This provision expresses two related dimensions of judicial accountability: responsibility to society and responsibility before God Almighty.

Developments in philosophy provide the concept of intersubjectivity as a means of understanding how arguments presented by different parties may be examined, thereby complementing legal reasoning based on statutory provisions. This article employs that perspective as a conceptual approach rather than treating it as a theory expressly adopted by *KUHAP*. Law No. 8 of 1981 guarantees the rights of suspects and defendants, their freedom to provide statements, and the examination of witnesses during trial. These safeguards recognize individuals as rights-bearing participants in criminal proceedings while preserving an active role for judges. Accordingly, Indonesian criminal procedure cannot be characterized simply as a purely accusatorial system. Equal opportunities to challenge evidence must operate within the powers and procedures established by law.

Within this perspective, the ascertainment of truth involves interaction among the parties and the examination of evidence presented in court. The courtroom serves as a forum in which competing arguments can be assessed, including the indictment submitted by the public prosecutor, the defense submissions (*pledoi*) presented by defense counsel, and statements given by witnesses and defendants. This process of examination and response enables judges to interpret statutory provisions alongside the facts established at trial, rather than relying exclusively on the grammatical meaning of legislation. The objective is to reach substantively just decisions that respect the human dignity of all parties involved in criminal proceedings.

Judicial reasoning should take account of legal certainty, social utility, and justice, three values associated in legal scholarship with the thought of Gustav Radbruch (Hakim & Ramadhan, 2021). These values provide a basis for evaluating judicial decisions but do not authorize departures from the principle of legality. Law No. 1 of 2023 marks an important direction in the reform of Indonesia's criminal law. During the period examined in this article, the Law had been promulgated but had not yet entered into force, as Article 624 establishes a three-year period following its promulgation on 2 January 2023. The discussion of the National Criminal Code is therefore prospective, while sentencing practices within the period under review are assessed according to the law then in force.

The sentencing objectives set out in Article 51(b), (c), and (d) of the National Criminal Code include the rehabilitation of convicted persons, the resolution of conflicts and restoration of social balance, and the encouragement of remorse and relief from guilt. Article 52 further provides that sentencing is not intended to demean human dignity. These provisions indicate the direction of sentencing reform established by legislation, although they had not yet entered into force as a legal basis for imposing criminal sanctions during the period examined. They may also be considered in relation to the values of belief in God, humanity, and social justice as philosophical foundations for the

reform of criminal law (Ridwan, 2012).

The pursuit of religious justice through Biomijuridika requires judicial reasoning that gives balanced consideration to applicable law, the circumstances of each case, and the interests of the parties involved. Reasoning focused exclusively on written legal provisions may limit judicial consideration of trial evidence and the interests of victims and defendants. A dialogical approach informed by the theory of communicative rationality and intersubjectivity offers an alternative perspective for legal reasoning. Intersubjective examination enables the parties' factual claims to be assessed through a balanced process at trial in the search for material truth, without treating statutory wording as the sole consideration in judicial decision-making.

The examination of these arguments must remain consistent with Pancasila as the philosophical foundation of the Indonesian state. The principle of belief in God under the first principle of Pancasila, together with respect for human dignity under its second principle, provides an ethical basis for judicial reasoning while requiring factual assessments to remain consistent with applicable law. Consideration of trial evidence alongside legal provisions and Pancasila values forms the basis for developing the approach to judicial reasoning discussed here as Biomijuridika. This approach assists judges in considering the legal basis of a case, facts established at trial, victims' rights, and defendants' circumstances when formulating decisions directed toward substantive justice.

This article examines the contribution of intersubjectivity to the formulation of judicial reasoning (*ratio decidendi*) in criminal cases, particularly in relation to the search for material truth. The discussion is organized into three main sections. The first examines intersubjectivity in evidentiary proceedings and criminal adjudication. The second addresses the integration of legal, sociological, and philosophical considerations in judicial decisions. The third discusses Biomijuridika and the incorporation of religious values as a foundation for substantive justice.

## METHODS

This article presents a doctrinal and philosophical legal study examining the relationship between intersubjectivity, Pancasila values, and judicial reasoning in criminal cases in Indonesia. It adopts statutory and conceptual approaches, drawing on selected cases discussed in clearly identified secondary literature. Law No. 1 of 2023 is examined as part of the prospective reform of Indonesian criminal law, while the analysis of applicable law refers to Law No. 8 of 1981 on Criminal Procedure, Law No. 48 of 2009 on Judicial Power, and relevant provisions on restorative justice. The conceptual approach connects Habermas's theory of communicative rationality with interpretive legal reasoning and the concept of Biomijuridika. This study does not directly examine complete court case records, compare sentencing data across cases to assess disparities, or test causal relationships between religiosity and judicial reasoning. Its contribution lies in bringing these approaches together and clarifying the limits of their application in the formulation of judicial reasoning.

Legal materials are examined through a literature review that distinguishes statutory provisions, scholarly opinions, and the views of parties associated with particular cases. The Constitution and statutory law provide the basis for identifying judicial powers and the limits of judicial discretion. Academic literature is used to explain legal concepts and discuss specific cases, while *amicus curiae* submissions are treated as material for consideration that may be assessed through legal argument. The analysis is conducted qualitatively, using prescriptive and deductive methods to identify relevant legal provisions, examine consistency between concepts, and formulate recommendations. Throughout the discussion, a distinction is maintained between the law in force and proposed legal developments. Limited access to certain sources and the absence of a systematically reviewed collection of judicial decisions restrict the study's conclusions to statutory interpretation and conceptual analysis. Accordingly, assessing judicial reasoning in practice would require further empirical research. The criteria for assessing judicial reasoning include the lawful exercise of judicial authority, sufficiency of evidence, relevance of individual circumstances, clarity of legal reasoning, and protection of the parties' rights. The relationships between concepts are examined through the coherence of legal arguments rather than the frequency of religious terminology in judicial decisions. This article neither assesses judges' personal religiosity nor associates religious affiliation with individual integrity.

## RESULTS AND DISCUSSION

### The Intersubjective Approach to Evidence and Criminal Adjudication

A rigid application of legal rules risks reducing judicial reasoning to an exercise in matching facts with statutory provisions. This criticism concerns restrictive interpretations of the law rather than all forms of legal positivism, since positive law can also provide for the protection of rights and restorative objectives. An intersubjective approach offers a framework for examining the parties' arguments openly and fairly. Within this framework, historical facts are not determined by agreement among the parties but are reconstructed through legally admissible evidence. Judicial conviction must remain consistent with Article 183 of the Indonesian Code of Criminal Procedure (*KUHAP*), which requires at least two items of legally admissible evidence and the judge's conviction that a criminal offence has occurred and that the defendant is guilty of committing it. The exchange of arguments may improve the assessment

of evidence, but neither communication nor religious conviction can replace binding evidentiary requirements.

Article 165 of *KUHAP* authorizes the trial judge to obtain the information necessary to establish the truth. Under paragraph (2), the public prosecutor, defendant, and defence counsel are given opportunities to question witnesses through the judge presiding over the trial. These opportunities support a balanced examination of evidence while respecting the respective procedural roles of the parties. The indictment provides the basis for the proceedings and contains allegations that must be proved; it does not constitute an established account of the facts that may be accepted without examination. The relationship between these provisions and intersubjectivity is a conceptual interpretation developed in this article, while the legal basis for conducting criminal proceedings remains the applicable law of criminal procedure.

This communicative approach is also reflected in the provisions governing the examination of defendants' statements in court, including Article 153(2)(b) read in conjunction with Article 189, as well as the safeguards concerning the freedom to give statements under Articles 52 and 117 of *KUHAP*. The Code of Criminal Procedure does not adopt a plea-bargaining mechanism. Consequently, a defendant's admission does not automatically establish every element of the charge or bring the evidentiary process to an end. The defendant's statement is treated as one form of evidence whose consistency with other evidence must be assessed.

This article draws on Jürgen Habermas's theory of communicative rationality as one framework for understanding intersubjectivity, without suggesting that the concept originated exclusively in his work (Habermas, 1996). Its application to criminal proceedings requires consideration of the different powers and procedural positions of judges, public prosecutors, defendants, and witnesses. Equality in this context means a meaningful opportunity to present and challenge arguments, rather than the elimination of procedural distinctions between the parties. The facts of a criminal case must still be established through lawful evidentiary procedures. The legitimacy of a judicial decision must therefore be assessed by the transparency of its reasoning, the protection of rights, and compliance with criminal procedure. Agreement among the parties does not, in itself, establish material truth or guarantee a just outcome.

The ideas of Locke and Hegel should be distinguished when examining the relationship between individuals and the state. Locke regarded natural rights as preceding the establishment of government, whereas an interpretation of Hegel emphasizes mutual recognition between subjects in the development of self-consciousness (Łazarski, 2013; Wikantoso, 2016). These perspectives provide different points of reference rather than a single, identical theory concerning the origins of rights. Arthur Kaufmann also criticized understandings of law confined to written rules. Scholarship on Kaufmann explains the importance of justice in concrete circumstances and the place of the human person within legal relationships (Piechowiak, 1999). This article uses these ideas to clarify the need for judicial reasoning that takes account of relationships among the parties. Claims that a legal provision produces injustice must nevertheless be supported by reasoned arguments and cannot justify unlimited judicial discretion. Relational legal reasoning thus complements the examination of legality, evidence, and culpability while allowing moral considerations to be explained to the public through rational legal argument.

In *Law's Empire*, Ronald Dworkin employs the figure of Judge Hercules to explain law as integrity, an interpretive approach that relates legal practice to the justification of moral principles (Dworkin, 1986). Hercules is not a judge concerned merely with identifying a single textual meaning. This idea supports coherent interpretive reasoning but does not suggest that all approaches to legal interpretation are equivalent or that communication is the sole measure of justice.

The role of judges in establishing the truth during criminal proceedings can be examined through three principal approaches to clarify the significance of intersubjectivity.

**Table 1. Comparison of Approaches to Establishing the Truth in Criminal Proceedings**

| Paradigm of Legal Thought | Characteristics of Evidence Examination | Role of the Judge in Criminal Proceedings | Implications for Sentencing Decisions |
|---|---|---|---|
| Textual Application (Formal Approach) | The examination focuses on statutory provisions, with limited consideration of social circumstances. | Judges apply written legal provisions and interpret them within the limits of their authority and applicable procedural rules. | Prioritizes legal certainty but may restrict consideration of the circumstances of individual cases. |
| Subjective Assessment (Personal Judgment) | The assessment of facts relies more heavily on the personal convictions of legal decision-makers. | Judges decide cases primarily on personal conviction without providing legal reasons that can be examined and challenged. | May contribute to sentencing disparities, reduce legal certainty, and weaken public confidence in the courts. |
| Intersubjective Rationality (Communicative Approach) | Statements and evidence are examined through questions and responses exchanged by the parties during trial. | Judges preside over proceedings and assess the consistency of statements, admissible evidence, and arguments presented by the parties. | Supports decisions grounded in evidence, reasoned legal justification, and the protection of the parties' rights. |


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This comparison identifies differences in approaches to examining evidence rather than providing an exhaustive classification of schools of legal thought. Intersubjectivity is understood as a means of limiting unilateral assessments through the examination of reasons and evidence. In Indonesia, this approach may be related to local wisdom and restorative justice (Akbar, 2021; United Nations Office on Drugs and Crime, 2020). At the court level, guidelines for adjudicating criminal cases based on restorative justice have been established under Supreme Court Regulation No. 1 of 2024 (*PERMA* No. 1 of 2024). These guidelines must be applied according to their prescribed scope and requirements. Meanwhile, the recognition of *living law* under the National Criminal Code is examined as a prospective development in criminal law, not as justification for creating criminal offences beyond the limits imposed by the principle of legality.

Article 165(1) of *KUHAP* assigns an active role to the trial judge in obtaining the information necessary to establish the truth. Opportunities for the public prosecutor and defence counsel to question witnesses must follow the procedure prescribed by that provision. Reconciliation between an offender and a victim does not automatically remove the obligation to establish the facts through evidence. Article 183 requires at least two items of legally admissible evidence together with the judge's conviction that a criminal offence occurred and that the defendant committed it. The reasons for the decision must explain how both requirements have been satisfied.

Research concerning the Babeko community in Jambi describes customary dispute resolution practices involving deliberation among offenders, victims, and customary community leaders (Habi et al., 2024). These practices may be compared with discussions of the relationship between customary law and Sharia law without treating all local dispute resolution mechanisms as equivalent (Subhan et al., 2024). Research on the Baduy community also describes the role of reconciliation and the restoration of social relationships in resolving cases (Yulia et al., 2023). These accounts demonstrate the diversity of practices that may be considered through a communicative approach. However, the effectiveness of each mechanism and its capacity to protect individual rights must be assessed in its particular context. Discussions of restorative justice reform therefore provide a basis for considering whether the participation of offenders, victims, and communities is meaningfully accommodated within applicable legal procedures (Syah & Purwoleksono, 2023).

Restorative justice and intersubjectivity may be related to the second, fourth, and fifth principles of Pancasila within criminal justice proceedings (Garcia, Disemadi, & Arief, 2020; Sukardi & Purnama, 2022). The application of these concepts requires judges to provide reasons for their decisions (*ratio decidendi*) that extend beyond identifying the elements of the alleged offence. Judges must examine subjective culpability (*mens rea*) and the physical elements of the criminal act (*actus reus*), while considering the social circumstances underlying the conduct, victims' recovery, and the effects of criminal sanctions on public order. The recognition of customary criminal law must be interpreted carefully to prevent unjustified sentencing disparities and to maintain consistency between state adjudication and local understandings of justice (Rusdi Antara, Nyoman Budiana, & Sadnyini, 2021). Before delivering a judgment, judges must examine the prosecution's arguments, the defendant's defence, and the victim's interests on the basis of admissible evidence and applicable legal provisions.

The intersubjective approach therefore has an important role in evidentiary proceedings and criminal adjudication, provided that it operates within the requirements of criminal procedure. Treating the courtroom as a forum for the balanced examination of arguments allows factual claims to be assessed through reasoned inquiry, enabling judges to reconcile statutory certainty with the interpretive discretion permitted by law. The relationship between communicative rationality, the principle of belief in God embodied in Pancasila, and local wisdom may assist judges in formulating legally justified reasons for their decisions (*ratio decidendi*). Ultimately, the rule of law should be assessed not only by compliance with statutory provisions but also by the capacity of criminal proceedings to establish material truth while safeguarding legal certainty, victims' recovery, and the rights and human dignity of all parties.

**Integrating the Three Pillars of Judicial Reasoning in Criminal Court Decisions**

The assessment of criminal court decisions should consider not only whether the operative part of a judgment corresponds to the public prosecutor's sentencing request, but also the clarity, relevance, and proportionality of the court's reasoning (*ratio decidendi*) (Nurhafifah & Rahmiati, 2015). A judicial panel cannot rely solely on statutory provisions without considering the facts established at trial and the circumstances of the parties. Judges are responsible for providing reasons that address legal, sociological, and philosophical considerations (Hakim & Ramadhan, 2021). These three considerations inform judicial law-finding (*rechtsvinding*), enabling judges to explain the legal basis of their decisions in light of admissible evidence presented at trial, the interests of victims and defendants, and the demands of justice within society (Faisal, 2009).

These three considerations connect the facts established at trial with the underlying ideals of law (*rechtsidee*). The legal and sociological dimensions may be examined through an intersubjective approach to evidentiary proceedings. Proceedings that allow the parties to raise questions and respond to one another enable judges to assess whether the elements of a criminal offence have been established by the evidence (the legal dimension), while also considering

the defendant's circumstances, motives, and the consequences of the conduct (the sociological dimension). Both assessments must be supported by clear legal reasons rather than personal opinions. The philosophical dimension concerns the values of belief in God and humanity embodied in Pancasila as a basis for judicial reflection on justice, without altering the facts or evidentiary standards prescribed by criminal procedure.

The obligation to provide clear judicial reasoning includes consideration of the facts, circumstances, evidence, and aggravating or mitigating factors (Nurhafifah & Rahmiati, 2015). Article 197(1)(d) and (f) of *KUHAP* governs the relevant contents of first-instance judgments imposing criminal sentences. The legal consequences prescribed by paragraph (2) must be read in conjunction with the Constitutional Court's interpretation, including Decision No. 103/PUU-XIV/2016 (Mahkamah Konstitusi Republik Indonesia, 2017). Accordingly, deficiencies in judicial reasoning cannot be treated as automatically invalidating judgments at every level of adjudication. The sentencing guidelines under the National Criminal Code represent a direction for reform intended to strengthen consideration of individual circumstances. As these provisions had not yet entered into force during the period under review, they could not serve as a legal basis for sentencing in criminal proceedings before the courts. Legal and philosophical considerations must be expressed through clear legal reasoning rather than merely through references to spirituality in judicial decisions.

The National Criminal Code introduces sentencing reforms that take account of restoration and human dignity, although its provisions had not yet entered into force during the period examined. Pancasila is understood as the philosophical foundation of the Indonesian state, without treating the concepts of *Grundnorm* and *staatsfundamentalnorm* as necessarily identical. Scholarship on an open criminal justice system and the protection of victims helps explain this approach (Adawiyah & Rozah, 2020; Wulandari et al., 2024). Article 58(a) of the National Criminal Code identifies the abuse of official authority as an aggravating factor, while Article 52 addresses respect for human dignity. Both provisions form part of the discussion of national criminal law reform.

The three dimensions of judicial reasoning serve distinct purposes but may be considered together when assessing legal certainty, social utility, and justice, as discussed in Gustav Radbruch's legal philosophy. Radbruch's account of the relationship between legal certainty and justice may be compared with the approach reflected in Article 53(2) of Law No. 1 of 2023, which provides: "Where a conflict arises between legal certainty and justice in upholding law and justice, judges must give priority to justice." This provision is examined prospectively as part of sentencing reform and must be interpreted alongside the principle of legality and the judicial obligation to provide reasons that can be legally justified.

The legal pillar safeguards legal certainty and protects against arbitrary decisions by examining the relationship between the facts established at trial, the elements of the offence, and the defendant's culpability. The Indonesian evidentiary standard is governed by Article 183 of *KUHAP*, which requires at least two items of legally admissible evidence together with the judge's conviction, rather than an unexplained reliance on the expression *beyond a reasonable doubt*. The principles of legality, equality before the law, and due process place limits on judicial interpretation. The sociological pillar considers the circumstances of offenders and victims, together with the consequences of sentencing, which must be explained in the reasons for the judgment (Nurhafifah & Rahmiati, 2015). Article 54(1) of the National Criminal Code provides a direction for future reform, while Article 197(1)(d) of *KUHAP* governs the consideration of facts and evidence. Rehabilitation and diversion each require a distinct legal basis and compliance with their respective statutory conditions; neither may be applied indiscriminately to every criminal case. Judicial interpretation must be supported by clear legal reasons and must not prejudice the rights of the parties.

The philosophical pillar connects the application of legal rules with the protection of human dignity and an understanding of justice that can be justified through public reasoning (Hakim & Ramadhan, 2021). Biomijuridika is examined as an approach to legal thought that relates legal considerations to the values of belief in God and humanity under Pancasila (Rustamaji, 2019). This discussion includes criminal responsibility and judicial consideration of defendants' circumstances. In cases involving limitations in intellectual functioning, the assessment of criminal responsibility requires examination of the facts, expert evidence, and relevant legal provisions, rather than assumptions about an individual's capacities based on a medical label. Philosophical considerations complement this assessment by promoting equal treatment and avoiding discriminatory stigma against defendants.

The integration of these three dimensions is reflected in the reasons judges provide when assessing aggravating and mitigating circumstances. An admission of wrongdoing, cooperative conduct, and restitution for losses must be evaluated in the context of the individual case and do not automatically determine the severity of a sentence (Dilla & Yuherman, 2020; Lembaga Bantuan Hukum Pengayoman UNPAR, 2022). The protection of the right to life and victims' rights constitutes a relevant consideration, but it must be related to the elements of the offence and the degree of culpability (Nurhafifah & Rahmiati, 2015). In narcotics cases, distinguishing between persons who unlawfully use narcotics, persons with narcotics dependence, and those involved in trafficking requires an examination of the evidence and the legal conditions governing rehabilitation. Assessments of judicial practice must be supported by an adequate account of the facts of the case and the legal grounds for the decision. Similarly, allegations that judgments


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in corruption cases disregard moral considerations require a structured examination of the court's *ratio decidendi*. This article therefore proposes criteria for evaluating judicial reasoning rather than presenting empirical findings concerning criminal judgments generally or the personal religiosity of judges.

The discussion of juvenile criminal cases draws on the study by Risdawati et al. (2022) concerning Rantauprapat District Court Decision No. 18/Pid.Sus-Anak/2016/PN Rap on juvenile criminal responsibility. That study highlights the importance of intellectual functioning in assessing criminal responsibility and determining an appropriate sentence or measure. As this discussion relies on secondary research, details concerning the prosecution's sentencing request, the duration of rehabilitative measures, and any medical diagnosis are not presented as findings independently verified by this article. The protection of children must be considered in conjunction with Law No. 11 of 2012 on the Juvenile Criminal Justice System, including its provisions on diversion and the best interests of the child. This discussion demonstrates the need for sentencing reasons that reflect each child's circumstances without treating all juvenile cases as equivalent.

The discussion of aggravating circumstances also demonstrates the importance of distinguishing ethical assessments from facts established through evidence. The article published by LBH Pengayoman UNPAR (2022) is used to explain the debate surrounding sentencing considerations, rather than to establish the details of a mutilation case without examining the relevant court judgment. A human-centred approach to penal mediation in minor theft cases provides an example of efforts to restore social relationships within the limits of lawful authority (Deni, 2023).

Legal, sociological, and philosophical considerations assist judges in providing clear reasons for their decisions while protecting the rights of the parties. Judicial reasoning that gives exclusive priority to written legal provisions risks overlooking the circumstances of those involved and the consequences of criminal conduct. These three dimensions may help judges reconcile the application of statutory law with an assessment of the defendant's individual circumstances, the victim's interests, and public order. A judicial panel's ability to provide clear reasons depends on its knowledge of the law, professional experience, and adherence to judicial ethics. Reasoning grounded in applicable law, facts established at trial, and Pancasila values can assist judges in explaining the basis of their decisions, considering measures to address the consequences of criminal conduct, and providing legal certainty that remains attentive to society's sense of justice.

**Biomijuridika and the Realization of Religious Values as the Principal Foundation of Substantive Justice**

This article positions Biomijuridika as a conceptual framework connecting legal reasoning with the principle of belief in God and respect for human dignity. The concept has previously been discussed in scholarship examining Barda Nawawi Arief's legal thought and is therefore not presented as a concept first introduced by this article (Rustamaji, 2019). The article's contribution lies in relating Biomijuridika to intersubjectivity and the three pillars of judicial reasoning. Communicative rationality provides an approach to examining legal arguments and evidence, while philosophical reflection informs the assessment of sentencing objectives. Both approaches must remain consistent with the Constitution, criminal procedure, and the principle of non-discrimination. The incorporation of this framework into judicial institutions is a proposal requiring appropriate guidelines and evaluation, rather than an established practice whose effectiveness has been demonstrated. Within these limits, religious justice is understood as ethical reasoning that respects religious and cultural diversity, safeguards victims' interests, and protects defendants' rights without giving preferential status to any particular religious interpretation in criminal proceedings.

The prescribed heading of Indonesian judicial decisions*, "Demi Keadilan Berdasarkan Ketuhanan Yang Maha Esa"* ("For the Sake of Justice Based on Belief in the One Almighty God"), should not be regarded merely as an administrative requirement or a rhetorical expression (Harmono & Rasji, 2024). The declaration carries philosophical significance by emphasizing that the state's authority to adjudicate is closely connected to accountability informed by the principle of belief in God (Harmono & Rasji, 2024). It reflects the first principle of Pancasila, which provides a moral foundation for judicial institutions when making decisions that may restrict fundamental rights, including the imposition of imprisonment or the death penalty (Rahmatyar & Rosikhu, 2024).

This prescribed declaration illustrates the relationship between the principle of belief in God and judicial responsibility (Legowo & Taufiq, 2023). Comparisons with the formal headings of judgments in other jurisdictions must take account of their respective legal foundations and institutional contexts, since the wording of a judgment does not, by itself, establish whether an entire legal system is religious or secular. In this article, the heading of judicial decisions is examined in relation to the ethical responsibility and integrity expected of judges. These responsibilities must be reflected in reasoning that connects applicable law, established facts, and the protection of rights. Accordingly, the inclusion of the declaration cannot serve as the sole measure of the substantive quality of a judicial decision.

Article 197(1)(a) of *KUHAP* requires first-instance criminal judgments imposing sentences to contain the

prescribed heading "*DEMI KEADILAN BERDASARKAN KETUHANAN YANG MAHA ESA"* ("FOR THE SAKE OF JUSTICE BASED ON BELIEF IN THE ONE ALMIGHTY GOD"). The consequences prescribed by Article 197(2) must be understood in conjunction with Constitutional Court decisions interpreting the scope of these provisions. Constitutional Court Decision No. 103/PUU-XIV/2016 clarifies that the reference to criminal judgments in paragraph (1) concerns judgments delivered by courts of first instance. Consequently, the legal effects of non-compliance cannot automatically be extended to decisions at every level of adjudication (Mahkamah Konstitusi Republik Indonesia, 2017). The principle of belief in God as a foundation of judicial proceedings is also established under Article 2(1) of Law No. 48 of 2009 on Judicial Power. This principle provides an ethical foundation that must be reflected in clear legal reasoning, evidence, and the effective protection of rights, rather than merely in the inclusion of a prescribed declaration.

**Table 2. Comparison of Textual Interpretation and Pancasila-Based Criminal Judicial Reasoning**

| **Comparative Parameter** | **Textual Interpretation Model** | **Pancasila-Based Criminal Judicial Reasoning Model** |
|---|---|---|
| Sources of Judicial Consideration | Written legal provisions and evidence | Applicable law, Pancasila, and society's sense of justice |
| Prescribed Heading of Judicial Decisions | Formal wording required by the relevant jurisdiction | "For the Sake of Justice Based on Belief in the One Almighty God" |
| Ultimate Objectives of Sentencing | Imposition of criminal sanctions in accordance with applicable law | Rehabilitation, restoration, and protection of society |
| Scope of Judicial Accountability | Accountability under the Constitution, procedural law, and evidentiary requirements | Accountability to the law, society, the rights of the parties, and Pancasila |
| Approach to Establishing the Truth | Establishment of facts through legally prescribed evidentiary procedures | Legal, sociological, and philosophical assessment consistent with evidentiary requirements |

Source: Adapted by the authors from Harmono and Rasji (2024) and Legowo and Taufiq (2023).

Barda Nawawi Arief's legal thought provides an important foundation for criminal law reform that incorporates Pancasila values and religious reflection (Fatoni, 2015; Rustamaji, 2019). Criticism of the colonial legal legacy is used to examine the orientation of sentencing, rather than to suggest that all earlier legal provisions necessarily disregarded religion or humanity. Law No. 1 of 2023 reflects this direction of reform, although it had not yet entered into force during the period examined. The principle of judicial pardon under Article 54(2) is one of the provisions considered prospectively (Kai et al., 2024). An earlier legal basis for judicial leniency may also be found in Article 70 of the Juvenile Criminal Justice System Law. The development of judicial pardon should therefore be understood in the context of continuity between legal provisions, rather than as a concept entirely unknown to Indonesian law.

*KUHAP* distinguishes an acquittal from a judgment releasing the defendant from all legal charges. Article 191(1) provides for an acquittal where the defendant's guilt has not been legally and convincingly established, while Article 191(2) provides for release from all legal charges where the alleged conduct has been proved but does not constitute a criminal offence. Neither category should be equated with judicial pardon. A judicial pardon presupposes that the offence and the defendant's guilt have been established, but that neither punishment nor a measure is imposed on grounds permitted by law. Grounds of justification and grounds of excuse perform different functions in determining the unlawfulness of conduct and criminal culpability. These distinctions must be examined in the circumstances of each case, without treating Article 191 as a general legal basis for pardoning every offender whose guilt has been established.

For analytical purposes, this article organizes the justice-related values of Pancasila into five dimensions to assist in understanding the objectives of sentencing (Arief, 2011; Fatoni, 2015). This classification represents the authors' interpretation rather than a fixed classification expressly established by legislation. First, the dimension of belief in God emphasizes moral integrity and judicial reasoning free from conflicts of interest. Second, the dimension of humanity requires respect for human dignity, consistent with Article 52 of the National Criminal Code, which provides that sentencing must not be intended to demean human dignity. Third, the dimension of national unity encourages consideration of restoring social relationships within a diverse society. Fourth, the dimension of democracy and deliberation emphasizes the open examination of reasons and respect for the parties' opportunities to be heard. The objectives of rehabilitation, conflict resolution, and restoration of social balance under Article 51 may be related to

these latter two dimensions. Fifth, the dimension of social justice requires equal protection of offenders, victims, and society. These relationships constitute a philosophical interpretation of provisions intended to enter into force, rather than evidence that every judicial decision has consistently applied all five dimensions.

Article 54(2) of the National Criminal Code establishes a prospective basis for judicial pardon by allowing consideration of the minor nature of the offence, the offender's personal circumstances, or circumstances existing at the time of the offence and arising thereafter, with due regard for justice and humanity. Under this provision, a judge may refrain from imposing either punishment or a measure. Judicial pardon therefore cannot be adequately described as merely reducing a sentence (Kai et al., 2024). Nor is it automatically confined to offences formally classified as minor, since the relatively minor nature of the conduct is one of the considerations specified by the provision. Scholarship on criminal law reform emphasizes the need for clear and legally justifiable criteria to prevent arbitrary decisions (Maulidah & Jaya, 2019; Octafiana & Simangunsong, 2024). Victim restoration and developments following the offence may inform the assessment, but reconciliation does not, by itself, extinguish criminal culpability. During the period examined, the relevant provisions of the National Criminal Code could not yet serve as a legal basis for granting judicial pardons in criminal proceedings. Guidelines for their future application must distinguish the establishment of guilt, the grounds for withholding punishment or measures, and the protection of victims' interests. The value of forgiveness may thus be related conceptually to humanity without allowing judicial discretion to become an expression of unstructured personal sympathy.

Biomijuridika provides a perspective on the relationship between legal scholarship and the principle of belief in God within the framework of Pancasila (Rustamaji, 2019). This perspective may complement the assessment of the interests of offenders, victims, and society (Ridwan, 2012). Religious reflection should be expressed through ethical reasons that are open to examination, rather than through assumptions that other legal systems necessarily lack moral foundations (Fatoni, 2015). Prophetic intelligence is considered a proposed approach to strengthening judicial integrity by relating cognitive, emotional, and spiritual capacities. Judicial authority nevertheless derives from law. Personal conscience cannot justify violations of the principle of legality, disregard for evidence, or restrictions on the rights of parties to legal proceedings (Sulaiman, 2013).

The proposed reconstruction of judicial reasoning in pursuit of religious justice concerns the ontological, epistemological, and axiological dimensions of adjudication. Criticism of formalism is directed at approaches that overlook the human circumstances of legal disputes, without assuming that logical reasoning or the colonial legal legacy is inherently incompatible with restoration. Tanjung (2022) provides a basis for examining religious justice and judicial reflection. However, an increase in recidivism or sentencing disparities cannot be attributed directly to legal positivism on the basis of doctrinal legal research alone. Establishing such a relationship would require evidence drawn from judicial practice. This article therefore advances legal arguments concerning reform while limiting its claims about actual sentencing outcomes.

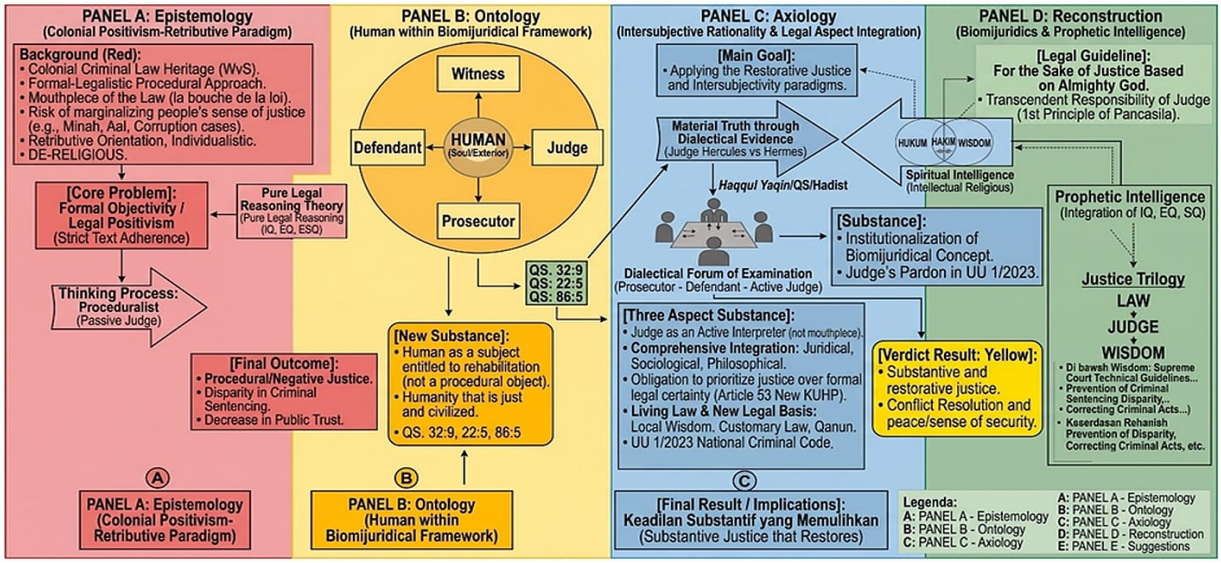
The ontological dimension regards human beings as legal subjects possessing dignity and legitimate interests in restoration. In Islamic theological reflection, Qur'an 32:9 refers to the formation of human beings and the breathing of the spirit into them, while Qur'an 22:5 and 86:5 address human creation in different contexts. These references provide a basis for theological reflection rather than evidence of a defendant's mental state. Proportionate sentencing may be expected to encourage moral awareness and personal improvement, but the success of repentance cannot be established merely from the wording of a judicial decision (Tanjung, 2022).

This approach to judicial reasoning connects law, judges, and wisdom as a framework for axiological reflection developed from Tanjung's research (2022). The article does not claim to be the first to identify this relationship as a three-part conception of justice. Judges are expected to combine legal competence with ethical sensitivity through reasoning that can withstand scrutiny. Qur'an 4:135 and 5:8 provide Islamic perspectives on the obligation to act justly, while their relevance to state adjudication must be understood in a manner that respects the rights of people of all religions and beliefs. Article 5(1) of the Judicial Power Law requires judges to explore and understand the legal values and sense of justice prevailing in society. This obligation does not remove the requirements of evidence or the limits imposed by positive law. Spiritual considerations are therefore positioned as supporting judicial integrity and accountability, with legal reasons that can be understood and evaluated by all parties to the proceedings.

The principle of belief in God within Biomijuridika and the Pancasila legal system does not provide a basis for imposing a particular religious interpretation, establishing theocratic authority, or permitting the dominance of any religious group. Within the Indonesian legal system, belief in God should be understood in relation to Soekarno's conception of culturally grounded belief in God (*Ketuhanan yang berkebudayaan*) (Alimuddin et al., 2021), reflecting shared national ethical values, tolerance, and respect for humanity. Judges' use of Biomijuridika when considering

religious values and local wisdom remains subject to the second principle of Pancasila, Just and Civilized Humanity, as well as human rights principles. Religious values may inform the *ratio decidendi* insofar as they contribute to the pursuit of justice, respect for human dignity, and the public good.

**Figure 1. Philosophical Framework and Legal Reconstruction for the Realization of Substantive Religious Justice**




Source: Developed by the authors from Tanjung (2022), with reference to criminal law reforms under Law No. 1 of 2023.

The figure presents the authors' conceptual framework concerning the relationship between intersubjectivity, Biomijuridika, and judicial reasoning. Its four panels address the epistemological, ontological, and axiological dimensions of adjudication, together with the proposed reconstruction of judicial reasoning. The framework is developed from the literature and does not constitute evidence that judicial practice has undergone the changes described (Tanjung, 2022).

Panel A explains the limitations of a predominantly textual approach to criminal adjudication. Emphasizing compliance with statutory wording without examining the circumstances of a case may weaken the quality of judicial reasoning. This relationship represents a legal assessment rather than proof that all judges adopt passive roles or that every sentencing decision produces disparity.

Panel B (Ontology) explains the position of the human person, particularly the defendant, within Biomijuridika as a legal subject possessing dignity, rights, and responsibilities. Judicial reasoning should consider the defendant's circumstances, the right to fair treatment, and the possibility of rehabilitation where permitted by applicable law (Tanjung, 2022).

Panel C connects the examination of evidence and legal arguments with legal, sociological, and philosophical considerations. Criminal proceedings remain governed by *KUHAP* and the legal safeguards protecting the parties' rights. The offender's circumstances and the victim's recovery must be assessed under their respective legal provisions. Judicial pardon under the National Criminal Code is examined as a prospective sentencing reform that had not yet entered into force and is therefore not treated as a general judicial power under the criminal procedure law applicable during the period examined.

Panel D (Reconstruction) presents Prophetic Intelligence, encompassing intellectual intelligence (IQ), emotional intelligence (EQ), and spiritual intelligence (SQ), as a proposed approach to strengthening judicial integrity in fulfilling legal and ethical responsibilities under the principle *"Demi Keadilan Berdasarkan Ketuhanan Yang Maha Esa"* ("For the Sake of Justice Based on Belief in the One Almighty God"). The relationship between Law, Judge, and Wisdom within the three-part conception of justice is used to explain judicial decisions grounded in legal reasoning, respect for the parties' rights, and consideration of society's interests in social restoration (Tanjung, 2022).

An orientation toward restoration provides grounds for considering offenders' opportunities for personal improvement alongside victims' interests (Harwanto, 2023; Kamalludin, 2022; Siswanto et al., 2024). However, the criminal law provisions governing adultery should not be equated with the recognition of *living law*. Article 411 of the National Criminal Code regulates adultery as an offence prosecutable upon a complaint by specified persons, whereas Article 2 addresses the recognition of law living within society subject to its own legal limitations. Both provisions are examined prospectively within the period covered by this article. Under *KUHAP* as applicable during that period, the execution of final and binding criminal judgments is the responsibility of public prosecutors under

Article 270, while judicial supervision and monitoring are governed by Articles 277–283. This interpretation complements discussions of criminal policy and the institutional arrangements governing the execution of criminal sanctions (Widyawati, 2020; Widyawati et al., 2022).

Applying justice-related values in a religiously and culturally diverse society requires particular care to prevent religious considerations from becoming a means of majority domination. Scholarship on the independence of the Constitutional Court[1] provides critical perspectives that must be distinguished from factual findings concerning the conduct of individual judges (Perdana et al., 2024). Ethical approaches to the legitimacy of judicial decisions also emphasize the importance of assessment criteria that can be justified and examined (Fathorrahman et al., 2024). This article uses both studies as conceptual references without equating constitutional adjudication with criminal proceedings. The protection of adherents of indigenous beliefs in education and debates concerning the Sikh *kirpan* illustrate different legal issues relating to freedom of religion and belief (Sihotang et al., 2021; Sinaga et al., 2024). These studies do not establish that the recognition of rights resulted from the application of Biomijuridika or that all legal issues involving the *kirpan* have been resolved. Constitutional guarantees provide the basis for equal protection, while Biomijuridika is proposed as one ethical framework for supporting inclusive judicial reasoning that respects religious and cultural diversity.

A significant challenge to the protection of these principles arises in the application of blasphemy provisions originating in Presidential Decree No. 1 of 1965 and Article 156a of the Criminal Code (Masyarakat Pemantau Peradilan Indonesia, 2018). These provisions have attracted sustained academic debate because of concerns that pressure from particular groups may contribute to their misuse, restrict freedom of expression, or expose members of religious minorities to criminal prosecution on account of their beliefs (ELSAM, 2018).

The discussion of the Meiliana case draws on secondary analyses of Medan District Court Decision No. 1612/Pid.B/2018/PN Mdn (Prabowo, 2020; Saleha, 2020). The *amicus curiae* submission by MaPPI-FHUI questioned whether the elements of the criminal offence had been established. However, the submission represents legal arguments advanced by a third party and cannot be equated with the court's findings or facts accepted in the judgment (Masyarakat Pemantau Peradilan Indonesia, 2018). These arguments are examined to consider the importance of establishing criminal intent, assessing statements in context, and protecting defendants against public pressure. Any conclusion that public pressure influenced the proceedings would nevertheless require evidence of its effect on judicial reasoning. Constitutional Court Decision No. 56/PUU-XV/2017, delivered on 23 July 2018, dismissed the petition for judicial review of the relevant legislation; it did not overturn Meiliana's criminal conviction (Mahkamah Konstitusi Republik Indonesia, 2018). This article therefore distinguishes legal assessments of blasphemy offences, the position of *amicus curiae* submissions, and the legal consequences of constitutional adjudication. The rights of people across religious communities must be protected through transparent legal reasoning, lawful evidentiary procedures, and judicial independence, rather than through preferential treatment of demands advanced by particular groups.

Aceh's *Qanun Jinayat* constitutes a special legal arrangement that must be considered in conjunction with Law No. 11 of 2006 on the Government of Aceh and Aceh Qanun No. 6 of 2014 on Jinayat Law. Voluntary submission to the jurisdiction of this legal regime concerns particular categories of legal subjects and does not establish a general principle under which all *jinayat* sanctions become restorative measures. The regime also provides for sanctions requiring separate assessment from a human rights perspective. The scholarship of Nurdin and Nur (2020) is used to explain the position of Islamic law within Indonesia's national legal system. Its relevance to this article lies in the need to examine carefully the relationship between special legal provisions, victims' protection, and equality of rights.

Scholarship on the welfare state grounded in prophetic-transcendental values provides a perspective on the relationship between Pancasila, morality, and social welfare (Dimyati et al., 2021). This perspective serves as a basis for legal argument rather than as evidence that all Indonesian legal practices are necessarily superior to those of other countries. In judicial reasoning, a concern for social welfare may be expressed through consideration of victims' interests, offenders' circumstances, and the social consequences of sentencing. Statutory interpretation, factual assessment, and moral awareness should be connected through reasons that can be examined and evaluated. Spiritual sensitivity remains complementary to legal competence and cannot replace evidence, lawful authority, or the protection of constitutional rights. The proposed use of Biomijuridika must therefore be assessed by the coherence of its reasoning and its responsiveness to the needs of a diverse society.

Judicial reasoning (*ratio decidendi*) that takes account of the Pancasila values of belief in God, humanity, national unity, democracy, and social justice may support decisions that are legally justified and responsive to the circumstances of individual cases. Sentencing should consider not only the imposition of criminal sanctions but also

[1] Perdana et al. (2024) examine the influence of religiously framed public pressure on the Constitutional Court's reasoning (*ratio decidendi*) in cases concerning polygamy (Decision No. 12/PUU-V/2007), blasphemy (No. 140/PUU-VII/2009), and interfaith marriage (Nos. 68/PUU-XII/2014 and 24/PUU-XX/2022). They argue that reliance on particular religious interpretations, considerations of public order, and deference to religious assemblies may favor majority perspectives, potentially limiting the constitutional rights and civil liberties of religious minorities.


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victims' protection, defendants' rights, and the interests of society. Judicial institutions must maintain compliance with criminal procedure, judicial independence, and judicial integrity when assessing evidence objectively and determining the legal consequences of criminal conduct (Ridwan, 2012).

## CONCLUSION

This article examines intersubjectivity and religious justice in judicial reasoning in Indonesian criminal cases. Examining the parties' arguments enables judges to address legal, sociological, and philosophical considerations. Biomijuridika is discussed as an existing concept in legal scholarship for interpreting judicial reasoning through Pancasila values, not as a judicial mechanism whose implementation has been established. The prescribed heading of judgments expresses judicial responsibility, which must be reflected in the assessment of admissible evidence, reasoned decisions, and protection of the parties' rights. Judicial pardon under the National Criminal Code is considered prospectively because its provisions had not entered into force during the period examined. Its application must respect legality, equality before the law, victims' interests, and the distinctions between acquittal, release from all legal charges, and judicial pardon.

The analysis emphasizes human dignity, evidentiary requirements, and sentencing objectives. Addressing the consequences of offences must also protect society and preserve offender accountability. Prophetic intelligence is discussed as a proposed means of strengthening judicial integrity, not as a measure of judicial effectiveness. Because this article relies on legal literature and cases discussed in secondary sources, it cannot establish causal relationships between religious values, judicial independence, and sentencing disparities. Further research could compare judicial reasoning by examining offence elements, case circumstances, and protection of the parties' rights. Protection of religious minorities must remain grounded in constitutional guarantees, criminal procedure, and limits on judicial authority. Moral considerations should be explained through legal reasoning accessible to all parties, without privileging particular religious interpretations. The assessment must not rely on judges' personal religious identities.

The Supreme Court should develop judicial pardon guidelines with clear criteria, taking account of restorative justice provisions under Supreme Court Regulation No. 1 of 2024 (*PERMA* No. 1 of 2024). Such guidelines must distinguish procedural from substantive criminal law; Supreme Court Regulations (*PERMA*) and Circular Letters (*SEMA*) cannot replace legislation. Judicial education should strengthen professional ethics, evidentiary assessment, and reasoning that respects religious and cultural diversity. Evaluation of implementation should examine the clarity of judicial reasons, victims' protection, equal treatment, and consistency across decisions. These recommendations seek to improve legal certainty and substantive justice through accountable judicial reasoning.

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