

Realizing the Trinity of Pancasila Justice: A Socio-Legal Study of a Community-Based Conflict Resolution

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ABSTRACT

Public conflicts involving both religious and economic sentiments, such as the case of the "religious seller" (Gus Miftah) and the "ice tea seller," (Sunhaji) present unique challenges that are often difficult to resolve through formal law. This study aims to analyze the settlement of cases between religious sellers and iced tea sellers based on Pancasila justice. The type of research used is normative-empirical research with a philosophical, conceptual, and socio-legal approach. The legal materials used are primary and secondary, which are then analyzed using qualitative descriptive techniques. The results of the study show that the settlement of cases between religious sellers and ice tea sellers reflects the values of Pancasila justice because it is able to provide substantive justice for the parties. This is based on the mechanism of case settlement through deliberation, which is part of the values of divine justice and humanity and also society, one of which is mutual forgiveness between the two parties. The religious seller received social sanctions from the community for his insults, which were considered a warning from God and the community even though the case essentially constitutes a minor criminal offence. Meanwhile, the iced tea seller received rewards from God and society in the form of material and immaterial support for what he experienced. Thus, this case represents justice for both parties in the context of Pancasila justice, which encompasses divine, humanitarian, and social justice.

Keywords: Law and Society; Pancasila Justice; Philosophy of Law

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INTRODUCTION

Indonesia is a state founded on the rule of law, a fundamental principle enshrined in Article 1(3) of the 1945 Constitution. This constitutional foundation establishes that the nation is governed by law, not by mere power a distinction clarified in its elucidation, contrasting a *rechtsstaat* (state based on law) with a *machtsstaat* (state based on power alone). Consequently, all aspects of public life including politics, economics, social affairs, culture, religion, and the environment are regulated and administered through

legal frameworks.¹ This ensures that any disputes arising within society are resolved through legal mechanisms. It is crucial to understand that the law referred to here is law grounded in Pancasila. Therefore, Indonesia is more precisely defined as a Pancasila Democratic State based on the rule of law, where the nation's philosophical foundation shapes and guides the entire legal system.²

At its core, Pancasila serves as the spiritual and ethical foundation of the Indonesian nation,³ reflecting the inner consciousness and legal idealism of its people. From this foundational bedrock emerge all the nation's values, norms, and moral-legal principles, both written and unwritten.⁴ As such, Pancasila embodies noble principles that every citizen is called to uphold, as it constitutes the ultimate source of guidance for national life, one of its most crucial principles is justice.⁵ Justice stands as a central pillar of societal and state life in Indonesia, profoundly articulated in its second and fifth principles, which are themselves deeply informed by the first principle of belief in one God. These tenets affirm the imperative to respect human dignity and to ensure the equitable distribution of justice for all citizens across every sphere of life including economic, religious, and cultural without discrimination.⁶ Therefore, Pancasila must be actively actualized in daily practice; it cannot remain merely a textual or philosophical symbol of statehood.⁷ However, as social beings, the practical enforcement of Pancasila's principles of justice is often met with significant challenges within the complex realities of community life.

With reference to the 1945 Constitution, one of the primary functions of Pancasila is to serve as the foundation of the state (*staatsfundamentálnorm*). This is explicitly affirmed in the preamble to the 1945 Constitution, which states that:

“consequently, the independence of the Indonesian nation was constituted in a Constitution of the state of Indonesia, which is established within a framework of sovereign Republic of Indonesia based upon Belief in the One and Only God, a just and civilized humanity, the unity of Indonesia, and popular sovereignty guided by the wisdom of deliberation in representation, and with the realization of social justice for all of the people of Indonesia”.

¹ Sinung Mufti Hangabei et al., “The Ideology Of Law: Embodying The Religiosity Of Pancasila In Indonesia Legal Concepts,” *LAW REFORM* 17, no. 1 (March 2021): 77–94, <https://doi.org/10.14710/lr.v17i1.37554>.

² Donald E Weatherbee, “INDONESIA: THE PANCASILA STATE,” *Southeast Asian Affairs*, 1985, 133–151.

³ M. Akbar Hadiprabowo, Wasino Wasino, and Edi Kurniawan, “Pancasila in Modern Indonesian Legal Reform: Addressing Current Cases and International Debates on Ideology and Law,” *Journal of Law and Legal Reform* 5, no. 4 (December 2024): 2151–74, <https://doi.org/10.15294/jllr.v5i4.18922>.

⁴ Arfa'i Arfa'i, Bahder Johan Nasution, and Febrian Febrian, “Aktualisasi Pancasila Sebagai Sumber Hukum Dalam Pembentukan Undang-Undang,” *Undang: Jurnal Hukum* 3, no. 2 (December 2020): 377–407, <https://doi.org/10.22437/ujh.3.2.377-407>.

⁵ Ferry Irawan Febriansyah, “Keadilan Berdasarkan Pancasila Sebagai Dasar Filosofis Dan Ideologis Bangsa,” *DiH: Jurnal Ilmu Hukum* 13, no. 25 (August 2017): 1–27, <https://doi.org/10.30996/dih.v13i25.1545>.

⁶ Teguh Prasetyo, *Keadilan Bermartabat: Perspektif Teori Hukum* (Bandung: Nusa Dua, 2019), p. 77.

⁷ Arfa'i, Nasution, and Febrian, “Aktualisasi Pancasila Sebagai Sumber Hukum Dalam Pembentukan Undang-Undang.”

The inclusion of the principles (*sila*) of Pancasila in the preamble to the 1945 Constitution confirms Pancasila's status as the fundamental basis of the state.⁸ This foundation is embodied in the article of the 1945 Constitution and further elaborated through statutory regulations.⁹ Consequently, Pancasila is recognized as the source of all legal sources in Indonesia.¹⁰ All statutory regulations from the lowest tier upwards, derive from the articles of the 1945 Constitution which in turn, derive from Pancasila and must therefore reflect the way of life, legal consciousness, and legal ideals (*rechtsidee*) consistent with the philosophy of the Indonesian nation.¹¹ Should a regulation be found inconsistent with or contradictory to the values of Pancasila, it is deemed to lack a basis in Pancasila and must be annulled or revoked.¹² This aligns with the legal principle that lower-ranking regulations must not conflict with higher-ranking ones (*lex superior derogat legi inferiori*)¹³ as illustrated in figure below:

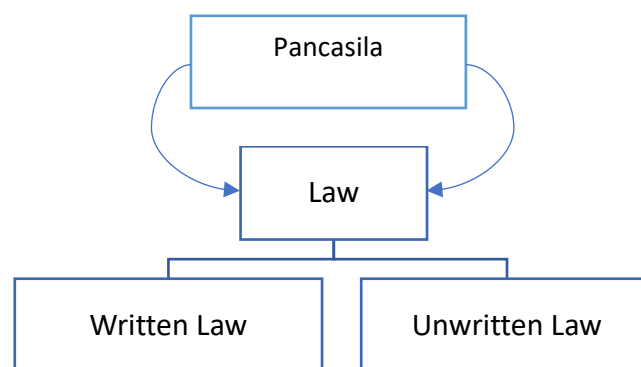


Figure 1: the application of Pancasila as the Grundnorm of the Indonesian legal system

Based on the figure, it is evident that Pancasila maintains an intrinsic relationship with both written and unwritten law.¹⁴ As the ultimate source of all legal sources, Pancasila

⁸ In addition to its role as the *grundnorm* or the ultimate source of all legal authority, Pancasila also fulfills the following essential functions: it serve as the nation's weltanschauung (fundamental belief system); as the fountainhead of its ethical, moral, and cultural values; as the philosophical foundation of the state; and as the guiding state ideology. Pusat Pendidikan Pancasila dan Konstitusi Mahkamah Konstitusi Republik Indonesia, "Modul Pancasila: Pendidikan Dan Pelatihan Peningkatan Pemahaman Hak Konstitusional Warga Negara," Mahkamah Konstitusi Republik Indonesia, 2015, 7–11.

⁹ M. A. Muqith et al., "Revolutionizing Pancasila as the Ideology of Indonesians," *RUDN Journal of Sociology* 22, no. 4 (December 2022): 860–71, <https://doi.org/10.22363/2313-2272-2022-22-4-860-871>.

¹⁰ Article 1 of the Decree of the People's Consultative Assembly (TAP MPR) No. III of 2000 on the Sources of Law and the Hierarchy of Legislative Regulations, in conjunction with article 2 of Law No. 12 of 2011, explicitly affirms that Pancasila constitutes the supreme source and fundamental norm of all state law.

¹¹ Hernadi Affandi, *Pancasila: Eksistensi Dan Aktualisasi*, 1st ed., 1 (Yogyakarta: ANDI Yogyakarta, 2021), 102.

¹² Barda Nawawi Arief, *Pembangunan Sistem Hukum Nasional* (Semarang: Universitas Diponegoro, 2021), 25.

¹³ Mokhammad Najih, "Indonesian Penal Policy: Toward Indonesian Criminal Law Reform Based on Pancasila," *Journal of Indonesian Legal Studies* 3, no. 2 (December 2018): 149–74, <https://doi.org/10.15294/jils.v3i02.27510>.

¹⁴ the Decree of the People's Consultative Assembly (TAP MPR) No. III of 2000 on the Sources of Law and the Hierarchy of Legislative Regulations, Article 1 (2).

must be reflected in very legal provision existing and in force within Indonesia.¹⁵ consequently, Indonesian law must embody the values of divinity, humanity, unity, democracy, and social justice. These values must be manifested not only within statutory law but also within unwritten law.¹⁶ Furthermore, Arief asserts that law concerns not merely “law in the books” and “law in action”, both of which are discernible through external observation but also constitutes “law in minds”. This latter concept encompasses logical reasoning, styles of thought, grounds for justification, principles, techniques, arguments, ideas, choices, and assumptions that can only be comprehended from an internal perspective.¹⁷ Thus, Indonesian law should not be interpreted merely as textual provisions rather, it must be understood holistically (*integralistik*) through the lens of Pancasila values. Therefore, every individual and group to reflect these values in their conduct within societal, national, and state life.

As interdependent social beings, humans find that the practical enforcement of the values of justice grounded in Pancasila is frequently confronted with multifarious challenges within the societal sphere. Recent trends point to a discernible decline in the quality of legal culture within Indonesian society. This regression is marked by a series of judicial calamities, including the rampant proliferation of bribery cases, legal and tax mafias, evidence tampering, and various acts of defamation and violence. The emergence of these issues can be largely attributed to a disregard for the foundational values of Pancasila, particularly its principles of divinity and national, locally-informed wisdom.¹⁸ As an illustrative currently resonating within society, one may cite the alleged insult directed at an iced tea vendor by a religious figure or preacher during a public sermon.¹⁹

The derogatory remarks made by religious preacher Gus Miftah Maulana against a ice tea seller, Sunhaji, signify a troubling shift in values within societal relations.²⁰ This incident, involving individuals from different social strata, is particularly egregious as a cleric, who is expected to model virtuous behavior, instead set a negative example in a public forum a religious gathering. The event provoked widespread condemnation across Indonesian society and even drew commentary from the Prime Minister of Malaysia.²¹ From the perspective of Pancasila justice, the act of publicly demeaning an

¹⁵ Muqsith et al., “Revolutionizing Pancasila as the Ideology of Indonesians.”

¹⁶ the Decree of the People’s Consultative Assembly (TAP MPR) No. III of 2000 on the Sources of Law and the Hierarchy of Legislative Regulations, Article 1 (2).

¹⁷ Barda Nawawi Arief, *Ilmu Hukum Pidana Integralistik (Pemikiran Integratif Dalam Hukum Pidana)*, 1st ed. (Semarang: Pustaka Magister, 2015), 24.

¹⁸ Barda Nawawi Arief, *Ilmu Hukum Pidana Integralistik (Pemikiran Integratif Dalam Hukum Pidana)*, 1st ed. (Semarang: Pustaka Magister, 2015), p. 45.

¹⁹ Michael Hangga Wismabrata, “Cerita Di Balik Hinaan Miftah Ke Penjual Es Teh, Menuai Kritik Dan Berujung Maaf,” *Kompas.Com*, 2024, <https://regional.kompas.com/read/2024/12/04/162648178/cerita-di-balik-hinaan-miftah-ke-penjual-es-teh-menuai-kritik-dan-berujung>.

²⁰ Febryantino Nur Pratama, “Viral Olok-olok Penjual Es Teh Saat Acara di Magelang, Gus Miftah Minta Maaf,” *detikjateng*, April 12, 2024, <https://www.detik.com/jateng/berita/d-7669841/viral-olok-olok-penjual-es-teh-saat-acara-di-magelang-gus-miftah-minta-maaf>.

²¹ *Komentar PM Malaysia Soroti Kasus Gus Miftah Olok Penjual Es Teh*, directed by KOMPASTV, 2024, 03:18, <https://www.youtube.com/watch?v=-GT6M48pJEk>.

individual, regardless of their background, constitutes a profound violation of its core principles. It directly contravenes the fifth precept of "social justice for all Indonesians," the second precept of "a just and civilized humanity," and, most fundamentally, the first precept of "Belief in the One and Only God." This first precept establishes Indonesia as a nation whose legal and state philosophy is guided by divine doctrine, forming the ultimate foundation for community, national, and state life, upon which all other precepts are built.

Indonesia, as a legal state based on Pancasila, places a high premium on human dignity grounded in Divinity. Therefore, the humiliation on Sunhaji by Gus Miftah is normatively inconsistent with the principles of justice in Pancasila. This act specifically contravenes MPR degree No. VI of 2001 on the Ethics of National Life Particularly the General Principles of Good Governance (AUPB) as well as article 315 of the Criminal Code (KUHP) on simple insult. Substantively, this incident amounts to both minor criminal offense and a serious ethical violation by public official. However, in formal terms, the case cannot proceed to adjudication because it is a compliant-based offence (*delik aduan*) and the victim has forgiven the perpetrator.²² Thus, the legal focal point of this research is not the aspect of criminalization, but rather how criminal case resolution can be framed within a recovery mechanism based on the sublime values of Pancasila.

This case has garnered significant attention from academics across various disciplines, including ethics, philosophy, law, religion, and social sciences. Prasetyo (2025) analyzes the conflict between Gus Miftah and the street vendor through the lens of preaching ethics, arguing that a religious lecturer's conduct should embody gentleness, moral exemplarity, and respectful discourse.²³ Meanwhile, Nadhif (2024) highlights the role of social status in shaping communication dynamics, noting that Gus Miftah's higher social position relative to the vendor carries an inherent responsibility to interact with wisdom and restraint.²⁴ Furthermore, the media's role in shaping public perception has been pivotal. As demonstrated by Pangaribuan's (2025) research on media framing, the specific narratives propagated by news outlets profoundly influenced public opinion, directly contributing to the case becoming a viral societal phenomenon.²⁵

Building upon the existing research, the case involving Gus Miftah's derogatory remarks reveals a multitude of perspectives for understanding the event. This article will analyze the case through the lens of Pancasila justice, the foundational philosophical doctrine of the Indonesian nation. This approach is vital to reaffirm the principles of justice inherent

²² Wismabrata, "Cerita Di Balik Hinaan Miftah Ke Penjual Es Teh, Menuai Kritik Dan Berujung Maaf."

²³ Ady Prasetyo, M. Misbahuddin, and Dewi Yunita Sari, "Etika Dakwah Dalam Polemik Gus Miftah Dan Penjual Es Teh: Analisis Perspektif Moral Dan Sosial," *Hikmah* 19, no. 2 (September 2025): 275–92, <https://doi.org/10.24952/hik.v19i2.17057>.

²⁴ Wildan Nadhif et al., "Pengaruh Status Sosial dan Kekuasaan dalam Komunikasi Antar Pribadi antara Gus Miftah dan Penjual Es Teh," *Kamaya: Jurnal Ilmu Agama* 7, no. 4 (November 2024): 114–24, <https://doi.org/10.37329/kamaya.v7i4.3801>.

²⁵ Mutiara Pangaribuan and Dian Saphira, "Analisis Framing pada Teks Editorial Tentang Buntut Panjang Olokan 'Goblok' Gus Miftah ke Penjual Es Teh : Studi Kasus pada Media Online Detik.com," *SABER: Jurnal Teknik Informatika, Sains dan Ilmu Komunikasi* 3, no. 1 (December 2024): 91–96, <https://doi.org/10.59841/saber.v3i1.2082>.

in Pancasila, which posit that national life and legal enforcement should be grounded in its tenets. Roscou Pound argued that legal issues within society must be addressed through unconventional (out of the box) methods, given the inherent complexity of social landscape that is in a state of rapid evolution and change. He contended that written law frequently fails to be applied with accuracy and justice when confronted with these dynamic social shifts.²⁶ Consequently, this article examines the defamation case against the street vendor Sunhaji by the religious preacher Gus Miftah Maulana from a Pancasila justice perspective. Through this case analysis, the study aims to provide a meticulous illustration of how Pancasila, as the state's foundation, can be actualized within social and legal practice. This endeavor is crucial for strengthening public trust in the state, particularly its legal institutions, to foster a society that is just, prosperous, and respectful of every individual, while wisely navigating the complex challenges of communal and national life.²⁷

METHOD

The type of research used to answer the questions posed above is normative-empirical study. This is because the research aims to analyze cases that occur in the field using Pancasila justice analysis. The approach used is a philosophical approach because it examines the values of justice contained in Pancasila as the basis of moral and legal justice in Indonesia, a conceptual approach because it explores the concepts of public ethics, human dignity and the moral responsibility of religious leaders in Indonesian law, and a socio-legal approach because it analyzes the concrete case of defamation by preacher or dai Gus Miftah against a tea seller named Sunhaji.²⁸

The data sources used in this study are secondary data collected through document or literature studies, resulting in various legal materials consisting of primary legal materials, which Soejono Soekanto defines as formal legal sources that have binding legal force.²⁹ Therefore, Pancasila is certainly binding for all Indonesian people because it is the guiding principle of the Indonesian nation. Secondary legal materials consist of national and international books and journals relevant to the topic discussed. This aims to help understand primary legal materials.³⁰ All legal materials collected were then analyzed using qualitative descriptive analysis techniques with systematic and logical legal reasoning.

²⁶ Romli Atmasasmita, *Moral Pancasila, Hukum, Dan Kekuasaan*, 1 (Bandung: PT Refika Aditama, 2020), 27.

²⁷ The Indonesian state's vision is to become a free or independent, united, sovereign, just, and prosperous nation. The word "merdeka" (independent) reflects the first and second principles of Pancasila, because independence or freedom must place every individual on an equal footing before society and, above all, before God. Preamble to the 1945 Constitution

²⁸ Johnny Ibrahim mentioned that there are seven approaches in normative legal research. The other four are the statutory approach, the analytical approach, the historical approach, and the comparative approach. Johnny Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif* (Malang: Bayu Media, 2013), p. 300.

²⁹ Anthon F Susanto, *Penelitian Hukum Transformatif-Partisipatoris* (Malang: Setara Press, 2015), p. 23.

³⁰ Susanto, *Penelitian Hukum Transformatif-Partisipatoris*, p. 25.

DISCUSSION

The Trinity Concept of Pancasila Justice

Justice has been defined since Ancient Roman times, described as “*tribuere cuique suum*”, in English referred to as to give everybody his own, in Indonesian referred to as “*memberikan seseorang apa yang menjadi miliknya atau haknya* (giving everyone what belongs to them or what is their right).”³¹ Justice is defined as a fundamental ethical principle, which can be explained in the context of consciousness, customs, and moral understanding.³² When someone feels happiness, it means they recognize the existence of justice. Conversely, when someone feels hardship, it indicates the existence of injustice. These two terms give rise to controversy about whether something is fair or not, depending on the individual's perspective. This assessment is influenced by the circumstances that befall the person. If the situation is favorable, then people tend to see it as something fair.³³ This concept of justice is inappropriate because justice can come when someone encounters problems in life or trials, such as the case of defamation discussed in this article.

Most individuals believe that injustice must be opposed and punished, giving rise to numerous social and political movements around the world that strive to uphold justice.³⁴ Justice emerges as a response to the injustice experienced by society. Injustice occurs as a result of inadequate welfare. This encourages critical action as a reaction to existing injustice. In a cause-and-effect perspective, injustice becomes the reason for the creation of justice.³⁵ We would not know justice if there were no injustice, we would not know happiness if there were no hardship.

In the Indonesian context, the reference point for determining whether something is fair or unfair in society, nation, and state is Pancasila. This is because Pancasila is the source of ideology for Indonesia, which contains three values of divine justice (define justice), humanistic justice, and social justice, consisting of nationalism, democracy, and social justice.³⁶ Therefore, it is only fitting that in resolving legal or other issues, reference should be made to Pancasila justice. What Barda Nawawi Arief said can be seen in the illustration below:³⁷

³¹ Morris Ginsberg, *Keadilan Dalam Masyarakat* (Yogyakarta: Pondok Edukaasi, 2003), p. 6.

³² Hikmahanto Juwana, *Teori Hukum* (Jakarta: Program Pascasarjana Fakultas Hukum Universitas Indonesia, 2018), p. 45.

³³ Ferry Irawan Febriansyah and Yogi Prasetyo, *Konsep Keadilan Pancasila*, 1 (Ponorogo: Unmuh Ponorogo Press, 2020), p. 4.

³⁴ Sulistyowati, *Alternatif Penegakan Hukum Pidana Berbasis Nilai Keadilan*, 1st ed. (Yogyakarta: Deepublish, 2021), p. 62.

³⁵ Febriansyah and Prasetyo, *Konsep Keadilan Pancasila*, p. 3.

³⁶ Barda Nawawi Arief, *Pembangunan Sistem Hukum Nasional* (Semarang: Universitas Diponegoro, 2021), p. 13–14.

³⁷ Arief, *Pembangunan Sistem Hukum Nasional*, p. 13-14.



Figure 2: the framework trinity of Pancasila justice

Based on this image, it can be understood that the foundation or basis of Pancasila justice must be based on divine justice, followed by human justice and social justice (nationalistic, democratic, and social). This is because the spirit or essence of other forms of justice is based on divine justice.³⁸ This is what distinguishes Indonesia from other rule of law countries.³⁹ Countries based on Pancasila consider religious teachings to be one of the main sources of law, while rule of law countries separate religious elements from the state.⁴⁰ As a nation founded upon Pancasila, Mulyatno as cited by Arief posits that any legal science unaccompanied by Divine knowledge is fundamentally incomplete.⁴¹ Consequently, the precepts of the one supreme God must be profoundly internalized, comprehended, and implemented within the enforcement of law in Indonesia.

The exploration and implementation of Divine guidance in law enforcement are, in essence, statutory mandated. This evidence in article 29 (1) of the 1945 Constitution, which stipulates that the state is based on the One Supreme God; article 2 (2) of Law No. 48 of 2009 on Judicial Power (amending Law No. 4 of 2004), which mandates that the state judiciary applies and enforces law and justice based on Pancasila; and article 8 (3) of Law No. 16 of 2004 on the Prosecution Service, which states that for the sake of justice and truth based on the One Supreme God, the prosecutor conducts prosecution with a conviction based on valid evidence and other statutory regulations. Therefore, the application of law is properly incumbent upon Divine guidance, not merely the guidance of statutory legislation.⁴² Divine guidance is paramount in upholding restorative and equitable justice, as it constitutes the supreme law that is all regulating and ordering.⁴³ Certain conditions exist beyond the reach of formal or positive law; thus,

³⁸ Mohammad Noviani Ardi et al., "Actualization of Pancasila Philosophy in the Context of Family Social Resilience in Jalawastu Traditional Village, Brebes Regency, Central Java, Indonesia," *El-Usrah: Jurnal Hukum Keluarga* 7, no. 2 (December 2024): 557, <https://doi.org/10.22373/ujhk.v7i2.25746>.

³⁹ Faisal A Rani, Eddy Purnama, and Husni Djalil, *CONSTRUCTION OF LEGAL PARADIGM OF PANCASILA: A CONCEPTUAL PERSPECTIVE*, 23, no. 2 (2020).

⁴⁰ Mujaid Kumkelo, "Pola Harmonisasi Dan Positivisasi Fatwa Dalam Tata Hukum Nasional (Kajian Atas Pembaruan Fatwa MUI Dalam Hukum Islam)" (Disertasi, Universitas Brawijaya, 2014).

⁴¹ Arief, *Pembangunan Sistem Hukum Nasional*, 25.

⁴² Agus Fauzi, "Agama, Pancasila dan Konflik Sosial di Indonesia," *e-Journal Lentera Hukum* 4, no. 2 (August 2017): 122, <https://doi.org/10.19184/ejlh.v4i2.5295>.

⁴³ Al-Qur'an al-Kariim, Surah al-Furqon (25): 2.

alternative considerations of a higher order are indispensable to deliver true justice to society.

In the practice of law enforcement, there exist governing legal principles that must be respected, understood, and upheld. The Qur'an delineates several such principles that function as guidelines for the establishment of justice:

1. The principle of Tauhid. Serving as the bedrock of justice,⁴⁴ this is referenced in Qur'an, which states that God commands justice and benevolence.⁴⁵ This implies that for society and law enforcement officials, justice is not merely a procedural duty but a mandatory divine commandment.
2. The principle of equilibrium (*at-tawazun*). Citing surah Ar-Rahman which speaks of God raising the sky and setting the balance,⁴⁶ this principle dictates that equality, proportionality, and balance are essential to the legal process.
3. The principle of impartiality. This principle serves as a safeguard against bias, ensuring that legal treatment is not swayed by personal animosity or affection. The Qur'an explicitly warns against allowing hatred of a group to incite injustice.⁴⁷
4. The principle of reconciliation. This principle advocates for case resolution through the mechanism of mutual forgiveness, highlighting the spiritual rewards promised by God. The Qur'an notes that while the retribution for an injury is an equal injury, those who forgive and seek reconciliation are rewarded by God.⁴⁸
5. The principle of fair testimony. Based on the Qur'an injunction to be upholders of justice and witnesses for God,⁴⁹ this principle mandates that testimony must remain objective and truthful, irrespective of whether it implicates oneself or one's kin.

Furthermore, the value of humanitarian justice is paramount in the construction and administration of equitable law. This significance arises from the necessity to consider the specific circumstances of the individuals or societal groups involved. Numerous precedents in Indonesia demonstrate that the integration of humanitarian elements can yield justice for all parties, particularly for victims. Within the Indonesian legal system, the exploration of law existing within society to uphold justice receives explicit statutory recognition. For instance, article 28 (1) of Law No. 4 of 2004 on Judicial Power mandates that judges must explore, understand, and reflect the legal values and sense of justice living within society. Consequently, in resolving legal disputes, it is incumbent upon law enforcement officials to comprehend and excavate the values of justice inherent in the community. The principle of just and civilized humanity serves as a robust foundation for the enforcement of law characterized by Pancasila justice. Crucially, the concept of

⁴⁴ Hangabei et al., "The Ideology Of Law."

⁴⁵ Al-Qur'an al-Kariim, Surah An-Nahl (16): 90.

⁴⁶ Al-Qur'an al-Kariim, Surah Ar-Rahman (55): 7-9.

⁴⁷ Al-Qur'an al-Kariim, Surah Al-Maidah (5): 8.

⁴⁸ Al-Qur'an al-Kariim, Surah Asy-Syura (42) : 40.

⁴⁹ Al-Qur'an al-Kariim, Surah An-Nisa (4): 135.

humanity employed here is not that of liberal secular humanism,⁵⁰ but rather theocentric humanism. This perspective views human dignity as a Divine endowment, thus justice for humanity is intrinsically part of Divine justice.⁵¹ Accordingly, the fundamental principles of humanitarian justice within the framework of Pancasila law enforcement include:

1. The principle of human dignity.⁵² This principle emphasizes that the law must strictly proscribe conduct that degrades human dignity, such as torture, slavery, defamation, exploitation, and similar acts. Within the Indonesian legal system, this principle is codified in Law No. 39 of 1999 on Human Rights.
2. The principle of equality before the law. This asserts that all individuals hold an equivalent moral status before God and the state, regardless of their social standing, ethnic background, race, religion, or other identity. Consequently, law enforcement must be impartial and non-discriminatory, barring exceptions aimed at substantive justice, such as affirmative measures for vulnerable populations.
3. The principle of proportionality. This indicates that achieving true justice requires more than formal uniformity in the law; it requires attention to context and factual realities (substantive justice). A prime example is restorative justice, which prioritizes the rehabilitation of social harmony over purely punitive measures.⁵³

Beyond Divine and humanitarian justice, community justice remains an inseparable element of the Pancasila legal framework. This form of justice comprises nationalistic, democratic, and socialistic dimension. Together, it is all establish a unified philosophical sequence wherein nationalis (unity) acts as the foundation for addressing legal matters, democracy serves as the method for operationalizing justice, and social justice represents the final goal. Consequently, specific principles are paramount. First, the principle of unity requires that the law act as a unifying agent for the nation, devoid of discriminatory practices. Second, the democratic principle necessitates that law enforcement be participatory, transparent, and accountable, accompanied by a wisdom that integrates technical intelligence with moral integrity. Finally, the socialistic principle insists that the law must deliver equitable outcomes across every layer of society.

Indonesia has principles summarized in Pancasila as the foundation of the state.⁵⁴ The concept of justice is also found in Pancasila. The fifth principle describes that justice is

⁵⁰ Hangabei et al., "The Ideology Of Law."

⁵¹ Artha Debora Silalahi, "PARADOX OF STATE OF LAW IDEA ON PANCASILA PHILOSOPHICAL JUSTIFICATION AS SOURCES OF LAW," *Jurnal Konstitusi* 21, no. 1 (March 2024): 62–76, <https://doi.org/10.31078/jk2114>.

⁵² Teguh Prasetyo, "Pancasila The Ultimate of All the Sources of Laws (A Dignified Justice Perspective)," *Journal of Law, Policy and Globalization* 54 (2016): 103–9.

⁵³ Silalahi, "PARADOX OF STATE OF LAW IDEA ON PANCASILA PHILOSOPHICAL JUSTIFICATION AS SOURCES OF LAW."

⁵⁴ Prakoso Prakoso, Fathur Rokhman, and Eko Handoyo, "Pancasila as a Foundation for Legal Reform: Evaluating the Impact of Civic Education on Indonesian Legal Systems," *Journal of Law and Legal*

based on the essence of humanity, namely the relationship between humans and themselves, their families, society, nation, state, and even God.⁵⁵ The purpose of law and the state is to achieve the highest level of happiness for everyone.⁵⁶ In order to achieve happiness, the law must have a sense of justice for all levels of society. In the relevant literature, there are distinct theories concerning the purpose of law that are prominent. The first is the ethical theory, which argues that the law exists exclusively to realize justice. This theory emphasizes that the nature of justice is not one-sided but reciprocal, requiring consideration of both parties in a relationship, whether between the government and the governed or capital and labor. The second is the utilitarian theory, which asserts that law aims to secure the greatest happiness for the greatest. Establishing that order is the *sine qua non* (essential condition) for a well-regulated society.

According to Kaelan, as quoted by Sulistyowati, a good country will rely on four good characteristics, namely policy, courage, restraint or concern, and justice. The Indonesian state and nation have Pancasila and continue to explore and use it as a guideline for life and behavior, in order to always realize a just life.⁵⁷ One of the goals of the state is to realize social justice. Therefore, the value of justice must be realized in every aspect of society, both nationally and internationally. Justice will create orderly conditions based on the values of independence, eternal peace, and social justice.⁵⁸ Social justice is not only limited to issues of economic distribution and development, but also relates to fair and balanced access to the law, because social justice is the right of every Indonesian citizen.⁵⁹ Sri Soemantri mentions the elements contained in Pancasila, namely: 1) Recognition of human rights and citizens rights; 2) Separation of powers; 3) In carrying out its duties, the government must be based on applicable laws, both written and unwritten; 4) Independent judicial power, meaning no interference or influence from the government.⁶⁰

A prominent characteristic of Pancasila justice is the principle of belief in God. Therefore, the principle of belief in God cannot be removed from justice in Indonesia, considering that the Indonesian people are a religious nation. This is further emphasized in the preamble to the 1945 Constitution. Humanity essentially humanizes humans both in society and in law, as does Indonesian unity, which is part of the characteristics of Pancasila justice. For further clarification, the following are the characteristics of Pancasila justice based on the principles contained therein:

Reform 5, no. 3 (October 2024): 1429–68, <https://doi.org/10.15294/jllr.v5i3.16498>; Prasetyo, *Keadilan Bermartabat: Perspektif Teori Hukum*, p. 78.

⁵⁵ M. Agus Santoso, *Hukum, Moral & Keadilan Sebuah Kajian Filsafat Hukum*, 2nd ed. (Jakarta: Kencana, 2014), p. 86.

⁵⁶ Santoso, *Hukum, Moral & Keadilan Sebuah Kajian Filsafat Hukum*, p. 91.

⁵⁷ Sulistyowati, *Alternatif Penegakan Hukum Pidana Berbasis Nilai Keadilan*, p. 62.

⁵⁸ Santoso, *Hukum, Moral & Keadilan Sebuah Kajian Filsafat Hukum*, p. 87.

⁵⁹ Lilik Haryadi and Suteki Suteki, "Implementasi Nilai Keadilan Sosial Oleh Hakim Dalam Perkara Lanjar Sriyanto Dari Perspektif Pancasila Dan Kode Etik Profesi Hakim," *LAW REFORM* 13, no. 2 (September 2017): 164–79, <https://doi.org/10.14710/lr.v13i2.16153>.

⁶⁰ Sri Soemantri, "Perlindungan Hukum Melalui Perlindungan Hak Asasi," *Makalah Seminar* (Surabaya), Fakultas Hukum Universitas 17 Agustus 1945, 1992, p. 3.

1. The Principle of Belief in One God. Spiritual values are closely related to determining the truth about justice. The Indonesian people's belief in the Creator fosters a sense of gratitude, which ultimately becomes a sense of justice;
2. Fair and civilized human values. Empowering humans is a form of respect for human rights that exist from pregnancy to the end of life. Respecting the human rights of every individual will encourage a sense of justice among those involved. Recognizing equal rights for everyone is an element of Pancasila justice;⁶¹
3. The value of Indonesian unity. A sense of togetherness is the main foundation for realizing justice, because justice is essentially the result of collective agreement in life to achieve equality;
4. The value of democracy led by wisdom in deliberation and representation. Pancasila as a source of justice must not contradict the aspirations of the people as determined through deliberation by the people's representatives;
5. The value of social justice. This fifth principle is a command to implement justice. This command will then become a legal rule that carries out the mission of justice.⁶²

The principles of justice contained in the Pancasila principles must be applied to uphold justice for the Indonesian people.⁶³ This theory, which is not possessed by other countries, prioritizes human rights based on fair and civilized humanity, which is based on divine values. According to Teguh Prasetyo and Arie Purnomo, in its position as a legal ideal, Pancasila has binding legal force.⁶⁴ Therefore, with its binding nature, every issue must be resolved based on Pancasila justice. The legal cases discussed in this article are examples that prove that Pancasila justice can resolve legal cases fairly. The first case is the insult against an iced tea seller (Sunhaji) by a religious seller (Gus Miftah).

Analyze the Case of Religion Sellers and Iced Tea Sellers Based on Pancasila Justice

⁶¹ Shidarta, *Pancasila, Hak Asasi Manusia Dan Keadilan Lingkungan, Prosiding Konfrensi Nasional Hak Asasi Manusia, Kebudayaan Dan Tujuan Pembangunan Berkelanjutan Indonesia Pada Masa Pandemi Covid-19: Tantangan Untuk Keilmuan Hukum Dan Sosial* (Bandung: CV. Media Sains Indonesia, 2020), p. 51–54, https://www.researchgate.net/publication/353317235_Keterkaitan_antara_Keadilan_Sosial_dan_Keadilan_Lingkungan_dengan_Hak_Asasi_Manusia_dalam_Pancasila.

⁶² Febriansyah and Prasetyo, *Konsep Keadilan Pancasila*, p. 72-73; Kumkelo, "Pola Harmonisasi Dan Positivisasi Fatwa Dalam Tata Hukum Nasional (Kajian Atas Pembaruan Fatwa MUI Dalam Hukum Islam), p. 65-66."

⁶³ Shira Thani et al., "Islamic, Pancasila, and Constitutional Approaches to Green Financial Crime in Indonesia," *International Journal of Law and Society (IJLS)* 4, no. 2 (August 2025): 268–89, <https://doi.org/10.59683/ijls.v4i2.190>.

⁶⁴ Teguh Prasetyo and Arie Purnomo, *Membangun Hukum Berdasarkan Pancasila* (Bandung: Nusa Media, 2014), p. 35.

Case Chronology

The case of defamation committed by a preacher or *da'i* against an iced tea seller named Sunhaji began when Gus Miftah was a preacher at a Sholawatan event held at Soepardi Field, Sawitan, Magelang Regency, Central Java on November 20, 2024. Gus Miftah's remarks angered the online community when he asked one of the iced tea vendors, Sunhaji, during the religious gathering, "Do you still have a lot of iced tea left? No? Well, go sell it, you idiot. Sell it first, and if it doesn't sell, well, that's fate," said Gus Miftah. The remark was met with laughter from the man sitting next to him.⁶⁵

A few days later, on December 2, 2024, Gus Miftah's video went viral on social media and angered the public. This was because his remarks were insulting to the iced tea seller. On December 3, 2024, Gus Miftah's lawyer clarified that his remarks were only a joke to attract public attention. Even Gus Miftah's colleague, Gus Yusuf Chudrory, who was also present at the recitation event, said that it was just a spontaneous action and part of his communication style.⁶⁶ The anger of many people over the video prompted Gus Miftah to appear in public. On December 4, 2024, he made a video apologizing for his mistake. He admitted that he had received a reprimand from the presidential palace through the Indonesian Cabinet Secretary. On the same day, he visited Sunhaji's home to apologize in person.⁶⁷

Pancasila Justice in Examining Cases of Religion Seller and Iced Tea Seller

Viewing a case requires more than a single vantage point, a multidimensional perspective is essential to easily identify the underlying problems and solutions. This applies equally to the defamation case involving Gus Miftah and Sunhaji, studying it solely through the lens of positive law is inadequate, as there are various methods to resolve the issue appropriately and attain substantive justice. This view is reinforced by Paul Scholten, who emphasized that justice is the meaning of law; law is bound by positive norms yet is essentially a pursuit of justice.⁶⁸ Scholten's statement aligns with the principles of Pancasila justice, which posits that justice stems from unwritten sources as well as written statutes, as depicted in figure 1. In the view of Pancasila justice, the case can be reviewed or examined based on the values of Pancasila justice, as follows:

1. Divine Justice

Divine justice is the primary source of justice for the Pancasila legal system because it places humans as noble beings who must be respected and are the

⁶⁵ Ruth Meliana, "Kronologi Viral Gus Miftah Maki Penjual Es Teh Saat Dakwah, Tuai Kecamatan," *Suara.Com* (Jakarta), December 10, 2024, https://www.suara.com/lifestyle/2024/12/03/133816/kronologi-viral-gus-miftah-maki-penjual-es-teh-saat-dakwah-tuai-kecamatan#goog_rewarded.

⁶⁶ Henni Rachma Sari, "Kronologi Lengkap Gaduh Gus Miftah Hina Penjual Es Teh, Minta Maaf Usai Viral Kini Mundur Dari Kabinet Prabowo," *Merdeka.Com* (Jakarta), n.d., accessed October 12, 2024, <https://www.merdeka.com/peristiwa/kronologi-lengkap-gaduh-gus-miftah-hina-penjual-es-teh-minta-maaf-usai-viral-kini-mundur-dari-kabinet-prabowo-252622-mvk.html?page=4>.

⁶⁷ Sari, "Kronologi Lengkap Gaduh Gus Miftah Hina Penjual Es Teh, Minta Maaf Usai Viral Kini Mundur Dari Kabinet Prabowo."

⁶⁸ Paul Scholten, *De Structuur Der Rechtswetenschap, Terjemahan Arief Sidharta, Struktur Ilmu Hukum*, Pertama (Bandung: PT. Alumni, 2013), 22.

most noble among other creatures.⁶⁹ Divine justice must serve as the fundamental bedrock in both formulation of policy and the resolution of problems within societal and state life. For instance, in the drafting of the Criminal Code (Kitab Undang-Undang Hukum Pidana), the formulation of articles must be anchored in Pancasila values, specifically Divine justice. This principle emphasizes that criminal law must not be viewed solely through the lens of perpetrator's interests; rather, it necessitates equal consideration of the victim's interests, thereby approximating collective justice.⁷⁰ Similarly, the practical of the law must prioritize the principles of Divine justice. Divine justice originates from the holy scriptures of religions in Indonesia.⁷¹ In this context, the divine justice used is divine justice that originates from Islamic teachings, namely the Qur'an.⁷²

The essence of divine justice in the case of defamation can be examined from two perspectives, namely explicitly and implicitly. Explicitly, the case of defamation by using inappropriate words against Sunhaji, especially in a public place, is very much against what is written in the holy book of the Qur'an, which means "*And indeed, We have honored the children of Adam.*"⁷³ This verse shows that respect for human dignity is the essence of divine justice. When Gus Miftah insulted Sunhaji, he violated divine law, and God will repay him with His justice. Another verse states that every action has its consequences.⁷⁴ Therefore, Gus Miftah's resignation from his strategic position in the government is a form of divine balance that emphasizes that every word and action must be balanced with responsibility.

Implicitly, behind the misfortune or humiliation experienced by Sunhaji, the iced tea seller, lies justice from God Almighty. The Qur'an states that God will honor those who are oppressed.⁷⁵ One form of this justice is the amount of support and material and immaterial assistance that the community has given him. This is one form of divine justice. Every word and deed experienced is an act of justice from God Almighty. Humans often think that justice is limited to happiness and good fortune, but hardship is also part of divine justice. Therefore, humans must be grateful for everything they receive. On that basis, everything that humans feel, whether it be happiness or hardship, basically stems from what they have

⁶⁹ Affandi, *Pancasila: Eksistensi Dan Aktualisasi*, 104.

⁷⁰ Atmasasmita, *Moral Pancasila, Hukum, Dan Kekuasaan*, 19.

⁷¹ The Republic of Indonesia recognizes six religions. 1) Islam with the Holy Quran as its scripture and mosques as places of worship. 2) Protestantism with the Holy Bible as its scripture and churches as places of worship. 3) Catholicism with the Holy Bible as its scripture and churches as places of worship. 4) Hinduism with the Vedas as its scripture and temples as places of worship. 5) Buddhism, with the Tripitaka as its holy book and temples as its places of worship. 6) Confucianism, with the Confucian scriptures as its holy book and temples as its places of worship. "Agama," Portal Informasi Indonesia, accessed October 19, 2025, <https://indonesia.go.id/profil/agama>.

⁷² Ali Ahmad Al-Jurjawi, *Hikmah Dibalik Hukum Islam*, Terj. Syarif Hade Masyah and Heri Purnomo, Buku 1, Cetakan V (Jakarta: Mustaqiim, 2002), 23–24.

⁷³ Al-Qur'an al-Kariim, al-Isra' (17): 70.

⁷⁴ Al-Qur'an al-Kariim, al-Muddatsir (74): 38.

⁷⁵ Al-Qur'an al-Kariim, al-Quraish (106): 3.

said or done, and this is a form of divine justice as a form of retribution. Without the incident of humiliation, it would have been impossible for anyone to help him. God Almighty wants to elevate people from unexpected circumstances, such as the humiliation experienced by Sunhaji. Thus, divine justice is manifested through a mechanism of compensation that exceeds human capacity.

Similarly, from Gus Miftah's perspective as the perpetrator, what he has been doing in giving lectures using inappropriate language, even if only as jokes, especially in public places, is contrary to the principle of divine justice. This is further emphasized by his friend Gus Yusuf, who says that such jokes have become part of his communication style.⁷⁶ Therefore, such jokes are a warning from God Almighty to Gus Miftah not to say inappropriate things when giving religious lectures or in other situations. Theologically, this reprimand itself embodies divine justice; it represents a merciful opportunity for course correction, demonstrating divine guidance by offering the individual a chance to realign with a righteous path. Based on the analysis of the case, what happened to the iced tea seller (Sunhaji) and the religious seller (Gus Miftah) was a form of justice from God Almighty for their words and deeds. Thus, both hardship and happiness are forms of divine justice that should be appreciated. Justice does not only concern what is visible, but also what lies behind the visible (metaphysical), expressed philosophically.⁷⁷

2. Humanistic Justice

The statement made by Gus Miftah to Sunhaji certainly contradicts the second principle, namely just and civilized humanity. This principle instructs Indonesian citizens to always pay attention to good manners or morals towards God, humans, and the universe. Basically, this human justice is a reflection of divine justice because all aspects of human life are regulated by divine law. This case shows the unequal treatment between the iced tea seller (Sunhaji) as an ordinary citizen and the religious leader (Gus Miftah) as a respected public figure. Gus Miftah, as a public figure who gives religious advice, should set an example for his listeners by being polite and respectful, not by demeaning the ice tea seller with words that undermine his dignity.

Fair and civilized law enforcement is not only in the form of legislation drafted by authorized institutions, but also a series of other interrelated legal systems that protect all Indonesian citizens. One model of resolution in human justice is to prioritize amicable settlements. This is what Gus Miftah did when he directly visited Sunhaji's residence. This visit represented the transformation of a hierarchical relationship into an equal relationship between human beings. This process emphasized that human dignity must overcome all forms of social stratification. This action was in line with the principle of human dignity, which is the foundation of the second principle. Thus, the reconciliation process

⁷⁶ Sari, "Kronologi Lengkap Gaduh Gus Miftah Hina Penjual Es Teh, Minta Maaf Usai Viral Kini Mundur Dari Kabinet Prabowo."

⁷⁷ Andi Ayub Saleh, *Tamasya Perenungan Hukum Dalam "Law in Book and Law in Action" Menuju Penemuan Hukum (Rechtsvinding)* (Jakarta: Yarsif Watampone, 2006), p. 70.

succeeded in restoring Sunhaji's basic rights as a human being who deserves respect.

This settlement mechanism shows that procedural justice does not always have to be institutionalized in the form of formal courts, even though Pancasila recognizes the settlement of disputes or cases through formal procedures,⁷⁸ but this is done as a last resort or option. Dispute resolution through deliberation presents a more contextual form of resolution with local wisdom values, making it more possible to create substantive justice, which is often overlooked in formal judicial processes.⁷⁹ Therefore, the most important thing in the resolution is its essence rather than its formal shape alone. This process shows that the law is capable of humanizing humans, which is in line with the progressive legal philosophy that views the law as an instrument of human liberation and restoration.⁸⁰

Resolution through a mechanism of amicable settlement holds profound socio-legal significance. Although, from a normative-juridical perspective, the constituent elements of article 315 of the Criminal Code (KUHP) were fulfilled, the parties elected to pursue a non-litigious path. Gus Miftah's initiative to visit Sunhaji, combined with Sunhaji's acceptance of the apology, constitutes a tangible manifestation of restorative justice in operation, reflecting the values of Pancasila. Drawing upon Barda Nawawi Arief's theory of equilibrium (*teori keseimbangan*), this resolution has realized Pancasila justice hostically for two primary reasons. First, regarding religious justice, acknowledgment and forgiveness are viewed as transcendental values superior to retribution.⁸¹ Second, regarding humanistic justice, the dignity of the victim is restored instantaneously without the necessity of protected judicial proceedings, while the perpetrator is subject to educative social sanctions without suffering the deprivation of liberty through incarceration.

3. Community Justice

Community justice is defined as justice derived from laws that have been agreed upon by a specific society or group, encompassing nationalistic, democratic, and socialistic dimensions. The defining characteristic of societal justice is its codified nature, it is promulgated by the sovereign authority to be enforced with the aim of providing legal certainty. Paul Scholten posits that justice is intrinsic to the very meaning of law, while law is positively bound (*gebondenheid*), it is

⁷⁸ Wawan Andriawan, "Pancasila Perspective on the Development of Legal Philosophy: Relation of Justice and Progressive Law," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 5 (June 2022): 1–11, <https://doi.org/10.24090/volksgeist.v5i1.6361>.

⁷⁹ Labib Muttaqin, Sudjito Atmoredjo, and Andy Omara, "Relasi Pancasila dengan Putusan Mahkamah Konstitusi Sebagai Sumber Hukum di Indonesia," *Jurnal Konstitusi* 21, no. 1 (March 2024): 77–97, <https://doi.org/10.31078/jk2115>.

⁸⁰ Margot E. Salomon, "Emancipating Human Rights: Capitalism and the Common Good," *Leiden Journal of International Law* 36, no. 4 (December 2023): 857–77, <https://doi.org/10.1017/S0922156523000316>.

⁸¹ Muttaqin, Atmoredjo, and Omara, "Relasi Pancasila dengan Putusan Mahkamah Konstitusi Sebagai Sumber Hukum di Indonesia."

simultaneously tasked with the pursuit of justice. In contrast, legal positivism maintains that law must remain neutral and must not be interfered with, contaminated by, or influenced by extra-legal elements.⁸² Fundamentally, Pancasila acknowledges positive law as a mechanism to ensure legal certainty and societal justice. This recognition is reflected in the fourth principle of Pancasila “democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives, which implies that law is enacted by authorized institutions. However, Pancasila does not disregard the living law existing within society as an integral part of the prevailing legal system in Indonesia.⁸³ When analyzed through the lens of normative or written justice, the act of insult committed by Gus Miftah against Sunhaji essentially satisfies the criminal elements of article 315 of the Criminal Code regarding “light insult”. This article stipulates that *“any intentional insult which does not amount to defamation or written defamation, committed against a person either in public orally or in writing, or in that person’s presence orally or by deed, or by a letter sent to or received by him, is punishable as light insult”*.

Based on a careful examination of the said article, the formal legal elements of insult are satisfied. First, regarding the element of any insult, the word “*goblok*” (stupid/fool), whether in Indonesian or Javanese, constitutes an invective that attacks a person’s dignity. Second, regarding the element of intent (*opzet*), Gus Miftah possessed the conscious will to utter the word, doing so while delivering a sermon or religious advice. Third, regarding to element of publicity (*in het openbaar*), the act was clearly committed in public, before thousands of congregants during a *sholawat* assembly. However, notwithstanding the fulfillment of these criminal elements, the case cannot proceed to adjudication. This is because the offense falls under the category of an absolute compliant-based offense (*delik aduan absolut*), meaning criminal liability can only be established upon a report the victim (Sunhaji). In this instance, the victim opted to resolve the matter amicably (*kekeluargaan*) by granting forgiveness to Gus Miftah.

Beyond its written character, community justice also possesses an unwritten dimension. This is evidenced by the significant public reaction regarding the insult directed at Sunhaji by Gus Miftah. This incident has angered the community, who are demanding that Gus Miftah apologize and resign from his position as the President's special envoy for religious harmony and religious facilities development.⁸⁴ In addition to expressing anger towards Gus Miftah, the community also provided support to Sunhaji in the various of assistance, ranging from a tea cart for his business, cash, free umrah trips, and so on.⁸⁵ The

⁸² Yusriadi, *Ilmu Hukum: Dogmatik Dan Teoritik Serta Problema Penegakan Hukum*, 1 (Semarang: Undip Press, 2020), 9.

⁸³ Najih, “Indonesian Penal Policy.”

⁸⁴ *Sambil Menangis, Gus Miftah Nyatakan Mundur Jadi Utusan Khusus Presiden Prabowo*, directed by CNBC Indonesia, 2024, 09:00, <https://www.youtube.com/watch?v=nTbzrnsYjYQ>.

⁸⁵ *Hikmah Di Balik Olokan, Sunhaji Dapat Bantuan Setelah Kontroversi Dengan Gus Miftah*, directed by Liputan6, 2024, 02:23, <https://www.youtube.com/watch?v=lgK4ZSfcQNw>.

assistance received was not merely charity, but also a form of distributive justice born out of collective social awareness. This phenomenon demonstrates the community's ability to create equality outside of state mechanisms.

This case shows that the mass media and public participation have a significant impact on the defamation case.⁸⁶ Without public participation, the defamation case could not have been resolved properly, and would have simply been swept under the rug, leaving Sunhaji feeling sad, while Gus Miftah would not have been affected in any way. Therefore, public participation is essential in law enforcement, as it is the public who are most aware of legal events occurring in the field.⁸⁷ The values of social justice in Pancasila are proven to be alive and working in society. This case shows how living law in society is able to respond to issues without having to rely on positive law.⁸⁸ Society actualizes the values of social justice through concrete actions. This process proves that the constitution is not only in text, but also alive in the collective consciousness. In this case, society functions as a people's constitutional court that interprets and upholds social justice, capable of producing moral and more responsive decisions than formal legal processes.

CONCLUSION

Based on the above explanation, it can be concluded that the resolution of the case of defamation against the iced tea seller (Sunhaji) by the religious seller (Gus Miftah) in a public activity (religious gathering) reflects the values of justice in Pancasila. This is based on divine justice, which teaches society that justice does not only come when someone experiences good fortune or happiness. Justice can also come when someone experiences misfortune. Sunhaji, who was insulted, was elevated by God through the community, while Gus Miftah was reprimanded for saying something that was contrary to divine justice. Thus, both parties received rewards in accordance with what they had done. This is what is referred to as divine justice. Then, in terms of human justice, Sunhaji and Gus Miftah have the same status in the eyes of the law and society. When Sunhaji's dignity was degraded, the community reacted to Gus Miftah's actions, saying that what he did was contrary to the values of human justice. Furthermore, in terms of social justice, while the case was technically prosecutable given that it fulfilled the statutory requirements for a minor offense under article 315 of the Criminal Code, the parties ultimately prioritized a non-litigious, amicable resolution. However, this case had a tremendous effect on society, with the community providing various forms of material and immaterial assistance to Sunhaji. Meanwhile, Gus Miftah received negative responses for his actions.

⁸⁶ Ariesta Wibisono Anditya, "Penanaman Nilai-Nilai Pancasila Melalui Kontrol Sosial Oleh Media Massa Untuk Menekan Kejahatan di Indonesia," *Nurani Hukum* 3, no. 1 (September 2020): 30, <https://doi.org/10.51825/nhk.v3i1.8463>.

⁸⁷ La Ode Dediharsiadi and Edy Nurcahyo, "Pancasila Sebagai Volkgeist: Pedoman Penegak Hukum Dalam Mewujudkan Integritas Diri Dan Keadilan," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 9, no. 1 (May 2020): 142–52, <https://doi.org/10.24843/JMHU.2020.v09.i01.p10>.

⁸⁸ Andriawan, "Pancasila Perspective on the Development of Legal Philosophy."

From the description and conclusions presented above, the suggestion conveyed in this article is that as social beings, humans need interaction with other humans to fulfill their needs. In carrying out these interactions, humans are often faced with various problems. Therefore, as God's creatures living in a country governed by Pancasila law, we should remind each other to do good and be truthful. We must uphold justice based on divine values, human values, and social values (local and national wisdom).

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