

Legal Certainty, Divine Values, and Justice in Indonesian Legal Practice

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Abstract

Pancasila, as the nation's way of life, plays an important role in shaping character and promoting harmonious justice. This discussion focuses on the role of the first and fifth precepts in promoting legal certainty. The main issue to be examined in this journal is how these two precepts serve as a balanced foundation for realizing moral and just legal certainty. The primary objective of this study is to analyze both precepts and the concept of legal certainty. The method used is library research through the examination of journals and legislation. The results of the study indicate that the first precept provides a moral foundation for the formation and enforcement of law, while fifth precept functions as a goal in realizing equitable justice. Both demonstrate that legal certainty should not only be formal but

also moral and just. In conclusion, the first and fifth precepts serve as the foundation for realizing legal certainty that is not only consistent in its rules but also grounded morality and justice. Both principles must be integrated to create a fair, humane legal system and to ensure societal welfare.

Keywords *pancasila, legal certainty, morality, justice*

A. Introduction

Pancasila is the main fundamental foundation in Indonesia's constitutional state. As the philosophy of life and the identity of the Indonesian nation and state, Pancasila requires that various aspects related to the interests of this country be based on Pancasila principles.² These aspects also contribute to building fair and balanced law enforcement within legal certainty.

Initially, the development of Indonesian law did not pay significant attention to issues of legal certainty. The inclusion of legal certainty in the second amendment of the 1945 Constitution of the Republic of Indonesia was influenced by political changes.³ This proves that the studies explored are closely related to discussions of Pancasila as a legal foundation and its connection to legal certainty within the constitutional framework.

However, there are still many studies have not examined the relationship between Pancasila—specifically the first and fifth precepts—and the concept of legal certainty. In the first precept, to achieving the Tri Religious Harmony (including internal harmony, interreligiousharmony, and harmony between religious communities and the government), involves cooperation among adherents of

² Suhendra Asido Hutabarat, “Pancasila Sebagai Sumber Dari Segala Sumber Hukum Negara Untuk Mewujudkan Kepastian Hukum Dan Keadilan Hukum Dalam Putusan Hakim Ditinjau Dari Sistem Hukum Yang Berlaku Di Indonesia,” no. 2 (2015): 91811, <https://ejournal.undiksha.ac.id/index.php/IJPP/article/view/31436>.

³ Fadly Andrianto, “Kepastian Hukum Dalam Politik Hukum Di Indonesia,” *Administrative Law and Governance Journal* 3, no. 1 (2020): 114–23, <https://doi.org/10.14710/alj.v3i1.114-123>.

different religions and beliefs. In the fifth precept, the essence of the fifth precept is justice, namely conformity with the values of justice.⁴

The novelty of this study lies in its focused examination of the first and fifth principles in relation to the concept of legal certainty, while still recognizing the inherent interconnection of the remaining three principles as an integrated unity within Pancasila. Together, these five principles constitute a coherent and inseparable framework directed toward a common objective.⁵ This research aims to formulate legal certainty within a contextual framework grounded in justice and morality. The originality of this study is reflected in its focused examination of the first and fifth principles of Pancasila in relation to the concept of legal certainty, while still acknowledging the intrinsic connection among the remaining three principles as an integrated whole. Collectively, these five principles constitute a cohesive and inseparable framework directed toward a singular objective. The primary aim of this research is to formulate a model of legal certainty grounded in justice and moral integrity within a specific contextual framework.

As the national ideology and state foundation, Pancasila makes its values the main basis for the administration of the Indonesian state.⁶ Pancasila serves as the fundamental foundation and inspiration for all good deeds in daily life and for state affairs.⁷ How do the first and fifth precepts in Pancasila become a balanced foundation in realizing moral and just legal certainty?

This research constitutes normative legal research using a library literature study as the technique for collecting various data. Based on existing theories, it can be concluded that normative legal research is a

⁴ Farida Sekti Pahlevi, "Revitalisasi Pancasila Dalam Penegakan Hukum Yang Berkeadilan Di Indonesia," *Justicia Islamica* 13, no. 2 (2016): 173–98.

⁵ Ambiro Puji Asmaroini, "Jurnal Pancasila Dan Kewarganegaraan Implementasi Nilai-Nilai Pancasila Bagi Siswa Di Era Globalisasi," 2016, 1–450.

⁶ Fransiska Novita Eleanora, "Pancasila Sebagai Norma Dasar Dalam Sistem Hukum Indonesia," *ADIL: Jurnal Hukum* 3, no. 1 (2019): 141–65, <https://doi.org/10.33476/ajl.v3i1.838>.

⁷ Asmaroini, "Jurnal Pancasila Dan Kewarganegaraan Implementasi Nilai-Nilai Pancasila Bagi Siswa Di Era Globalisasi."

type of legal research methodology that focuses on applicable legislation related to the legal issue legal issues.⁸

In the context of discussing the first and fifth precepts of Pancasila in relation to legal certainty, the normative juridical approach is highly relevant because researchers can broadly examine these precepts as philosophical foundations in applying legal values. The analysis of legislation and applicable legal principles can provide a way to reveal the principle of legal certainty that reflects morality and justice.

The library method is very important for this research because it helps solve problems more effectively through various sources containing inspiring ideas. By examining various previous thoughts and research findings, researchers can draw accurate conclusions. Additionally, this method helps researchers think critically and analytically, as researchers must be able to compare, connect, and evaluate data from various sources.

B. Strengthening Legal Certainty through the Implementation of Pancasila Values in Local Law (First Principle)

Pancasila is the foundation of the state and, more broadly, the source of all sources of law in Indonesia. As an ideology, Pancasila not only examines norms but also serves as a juridical foundation in organizing state life. The values of Pancasila provide legitimacy for law enforcement to consistently uphold justice, humanity, and welfare.

Religious courts provide justice and legal certainty for those seeking justice, ensuring that the resulting decisions can be implemented and meet their needs.⁹ This emphasizes that legal certainty is closely related to the first precept, as law enforcement is aligned with religious values and legal certainty itself is provided through religious courts. Religious courts play an important role in transforming religious norms into positive law. Through the implementation of the first principle of

⁸ Kornelius Benuf, Siti Mahmudah, and Ery Agus Priyono, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurangi Permasalahan Hukum," *Refleksi Hukum: Jurnal Ilmu Hukum* 3, no. 2 (2019): 145–60.

⁹ Hidayati Fitri, "Peran Hakim Peradilan Agama Dalam Mewujudkan Keadilan Dan Kepastian Hukum Melalui Putusan," *Jurnal Juris* 10, no. 1 (2011): 27–39.

Pancasila, this institution ensures that the legal certainty produced is not only administrative-worldly but also carries theological accountability or is based on religious values. To ensure justice in the fifth principle within the legal system, legal certainty must also be properly applied.¹⁰ Legal certainty ensures that same rules apply equally to everyone, regardless of social status. Without legal certainty, the law may favor powerful individuals, particularly the wealthy who believe money can buy everything, rather than protecting the rights of ordinary people.

To realize substantive justice, law enforcement in Indonesia requires integrity, morality, and professionalism.¹¹ These values emphasize the integration of divinity and justice. Through the first principle, law enforcers can position morality as a form of accountability to God. This moral awareness indirectly supports the realization of the fifth principle, where law functions as a tool to distribute rights fairly and administer justice. At this intersection emerges legal certainty—not merely rigid obedience to rules, but fair legal certainty. A situation where society can anticipate consistent legal protection, delivered by moral apparatus for the public good.

From the perspective of legal philosophy, the duties and responsibilities of law enforcers are not merely technical, but also ethical and moral, requiring awareness of the principles of justice, legal certainty, and utility.¹² From a philosophical perspective, legal certainty rooted in the first principle of Pancasila reflects moral responsibility and integrity before God. It suggests that the law should never be manipulated arbitrarily, as every human action is guided by religious ethics that uphold truth, ultimately contributing to the realization of legal certainty as one of the fundamental goals of law.

Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia explicitly states the principle of “fair legal certainty.” Therefore, legal certainty that is not fair undermines the protection,

¹⁰ Keysha Nashwa Aulia et al., “Kepastian Hukum Dan Keadilan Hukum Dalam Pandangan Ilmu Komunikasi,” *Jurnal Sains Student Research* 2, no. 1 (2024): 713–24.

¹¹ rizqie Achmad Alfarezi Et Al., “Pertanggung Jawaban Moral Dan Profesionalitas Penegak Hukum; Dalam Tinjauan Filsafat Hukum,” n.d.

¹² Alfarezi et al.

guarantees, and recognition of equal treatment before the law.¹³ When the law possesses clarity, consistency, and impartiality, it can be said to have achieved an objective sense of justice. Legal rules must be clearly defined, as such clarity is an essential requirement for realizing the fifth principle of Pancasila. Without legal certainty, social justice would remain nothing more than an illusion, easily swept away. In essence, the law serves to ensure that the rights of the less powerful are protected from those with greater power, thereby creating equality before the law and guaranteeing that all citizens receive fair and equal treatment without discrimination. Thus, legal certainty becomes the instrument that transforms the spiritual values of the first principle into a socially just reality for all Indonesians, as mandated by the fifth principle.

Data collected through normative legal research methods are systematically organized and analyzed qualitatively to produce a prescriptive perspective within constitutional law. Positive legal norms, as instruments of legal certainty, are examined to reflect the values of Pancasila as the source of all sources of law in the state. The aim is to achieve a balance between legal certainty and substantive justice in judicial decisions, as assessed within the framework of the Indonesian legal system.¹⁴ The relationship between legal certainty and the perspective of constitutional law lies in the role of the Constitution in strengthening the supremacy of law as a guarantee of citizens' constitutional rights. Legal certainty is not merely textual, it must also reflect clear limitations on the exercise of power and ensure procedural compliance. Within constitutional law, legal certainty serves as a fundamental foundation for the stability of a state governed by the rule of law, maintaining the consistency of constitutional norms to promote a clean and accountable system of governance.

1. Analysis of Aceh's Qanun from the Perspective of Constitutional Law (Sub-discussion)

Law enforcement in Indonesia must become a serious concern for the government in order to uphold the authority and credibility of the

¹³ Kedua Kali, Berbasis Keadilan, and D A N Kepastian, "Permohonan Upaya Hukum Peninjauan Kembali," 2017, 189–204.

¹⁴ Hutabarat, "Pancasila Sebagai Sumber Dari Segala Sumber Hukum Negara Untuk Mewujudkan Kepastian Hukum Dan Keadilan Hukum Dalam Putusan Hakim Ditinjau Dari Sistem Hukum Yang Berlaku Di Indonesia."

law.¹⁵ Law enforcement in Indonesia is essentially a dialectical effort to integrate morality and justice. This begins with the interrelated relationship between the first and fifth principles of Pancasila, in which divine values play an important role as the foundation for integrity and moral conduct among law enforcers, in order to realize equal justice for all citizens. Within the framework of a state governed by the rule of law, the connection between these two principles requires legal certainty as an instrument to ensure that the noble values of Pancasila do not remain merely symbolic, but become enforceable norms that can be observed and implemented by every citizen.

A concrete manifestation of the integration of divine values into substantive legal certainty can be found in the implementation of *Qanun* in Aceh Province. For many years, the term *Qanun* has been used to refer to laws or customary regulations in Aceh and has become an integral part of its cultural tradition. Many laws and customary norms established during the Aceh Sultanate were referred to as *Qanun*, generally consisting of rules derived from Islamic law that were adapted into Acehnese customary practices.¹⁶ As a province granted special autonomy, Aceh possesses the ability to translate the divine values inherent in the first principle of Pancasila into local regulatory frameworks through the enactment and implementation of *Qanun*. These regulations function not only as religious guidelines but also as legal instruments to realize justice as envisioned in the fifth principle. This article aims to examine how the synergy between divine values and legal certainty operates within the framework of constitutional law. The analysis specifically focuses on the first and fifth principles of Pancasila because of their strong relevance to the topic under discussion. It is important to note that this selection is made purely for academic purposes and does not intend to fragment the unity of Pancasila as an inseparable whole.

2. The First Principle in Qanun (Sub-discussion)

Law Number 10 of 2004, which was later replaced by Law Number 12 of 2011 on the Formation of Laws and Regulations, provides the

¹⁵ Siti Merida Hutagalung, "Penegakan Hukum Di Indonesia : Apakah Indonesia Negara Hukum," *Sociae Polites*, 2011, 109–26.

¹⁶ Jum Anggriani, "Kedudukan Qanun Dalam Sistem Pemerintahan Daerah Dan Mekanisme Pengawasannya," *Jurnal Hukum Ius Quia Iustum* 18, no. 3 (2011): 320–35, <https://doi.org/10.20885/iustum.vol18.iss3.art2>.

legal framework for the hierarchy of legislation in Indonesia. Accordingly, *Qanun*, as part of the Indonesian system of laws and regulations, should be positioned within the broader legal framework and derive its validity from higher legal norms. It must not, however, create conflicts with superior norms, as such inconsistencies may ultimately lead to the annulment of the *Qanun*.¹⁷ Within higher legal norms, the religious values derived from the first principle of Pancasila, as reflected in *Qanun*, must not stand alone as closed norms, but should instead be aligned with the principles of a state governed by the rule of law.

The government may annul a *Qanun* that conflicts with the public interest, other *Qanun*, or higher-ranking laws and regulations, unless otherwise stipulated by law, as provided in Article 235 paragraph (2) of Law Number 11 of 2006 on the Governance of Aceh.¹⁸ The relationship between the first principle of Pancasila and legal certainty within *Qanun* lies in the transformation of noble values into measurable legal norms. In this context, the first principle can be understood as a moral foundation underlying such regulations. However, it is important to note that these norms must remain subject to the hierarchy of laws and regulations, as stipulated in Law Number 12 of 2011.

If *Qanun* is able to maintain harmony between the substance of Islamic law and the Constitution, legal certainty can be more easily achieved—ensuring that the rights of citizens remain protected from uncertainty. Conversely, interpreting the first principle of Pancasila in isolation from the national legal system may give rise to normative dualism, which is vulnerable to annulment through judicial review, ultimately undermining public trust in the effectiveness of regional law itself. Therefore, legal certainty within *Qanun* is realized when divine values and juridical compliance operate together without creating legal disharmony.

3. The Fifth Principle in Qanun (Sub-discussion)

Within the framework of the fifth principle of Pancasila, namely “Social Justice for All Indonesians,” *Qanun* positions legal certainty as

¹⁷ Bambang Antariksa, “Kedudukan Qanun Aceh Ditinjau Dari Aspek Sejarah, Pengaturan, Fungsi, Dan Materi Muatan Qanun,” *Jurnal Ilmiah Advokasi* 5, no. 1 (2017): 17–33.

¹⁸ Yulia Susantri and Roni Hidayat, “Perda, Qanun, Dan Perdasi Dalam Sistem Hukum Nasional,” *Syiah Kuala Law Journal* 4, no. 1 (2020): 33–44, <https://doi.org/10.24815/sklj.v4i1.16595>.

an important instrument to ensure fair and objective justice in Acehese society. Based on the essence of human justice, this concept encompasses justice in the relationship between individuals and themselves, with others, within society, the nation, and the state, as well as in the relationship between humans and God.¹⁹

This relationship is grounded in the principle that social justice cannot be realized if legal rules lack clear direction, are unpredictable, or are applied selectively. From a juridical perspective, the existence of *Qanun* as a special regional regulation is based on Law Number 11 of 2006 on the Governance of Aceh and Law Number 12 of 2011 on the Formation of Laws and Regulations. Within the framework of the fifth principle of Pancasila, legal certainty requires that every provision within *Qanun* whether governing economic matters, Sharia, zakat, or social protection must have clear objectives and avoid ambiguity. Furthermore, the procedures governing such regulations must be open and transparent.

If *Qanun* is formulated systematically and aligned with strong legal certainty, the protection of citizens' economic and social rights can be effectively safeguarded against arbitrary practices, thereby contributing to the realization of social justice. Conversely, the absence of legal certainty within *Qanun* may lead to inequality and discrimination, which fundamentally contradict the values embodied in the fifth principle of Pancasila.

Therefore, the harmonization of *Qanun* with higher-ranking laws and regulations is not merely a legal formality, but also a practical effort to ensure that the prosperity and justice envisioned by Islamic law in Aceh are aligned with the broader national objective of achieving social justice for all Indonesians.

Within the framework of Islamic constitutional governance, *Qanun* is regarded as a legitimate legal product insofar as its formulation prioritizes the principles of justice and public welfare, without negating fundamental human rights.²⁰ The relevance of this principle to the fifth

¹⁹ Faiz Rahmanto, "Faiz Rahmanto P.ISSN Number 2337-7216, E ISSNNumber 2620-6625" 2, no. 2337 (2025): 440–58.

²⁰ Muhammad Afdhal, Al Azis, and Nazril Muntazar, "Eksistensi Qanun Syariat Islam Aceh Dalam Sistem Hukum Indonesia : Tinjauan Hukum Tata Negara Islam Dan UUD 1945 MUNTAZAR: Jurnal Ilmiah Multidisiplin Kesatuan , Eksistensi Qanun Syariat Islam Di Aceh Menjadi

principle of Pancasila lies in the effort to ensure a proportional distribution of rights and obligations for every citizen. This relationship is crucial in realizing legal certainty, as social justice can only be genuinely achieved when the provisions within *Qanun* are measurable, transparent, and non-discriminatory. From a juridical perspective, this is in line with Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which guarantees fair legal protection, recognition, and equal treatment before the law. The constitutional provision emphasizes guarantees for “every person,” meaning all individuals, to be free from discriminatory treatment on any grounds. Furthermore, Law Number 12 of 2011 requires that all regional regulations remain consistent with the hierarchy of national law.²¹

Without legal certainty, the value of justice embodied in the fifth principle of Pancasila would remain merely an abstract concept. However, through the harmonization of *Qanun* with the Constitution, every individual is entitled to assurance that their social and economic rights are protected from arbitrary actions, thereby enabling the realization of equitable prosperity in Aceh.

4. Analysis of Awig-Awig from the Perspective of the First and Fifth Principles of Pancasila in Realizing Legal Certainty (Sub-discussion)

Pancasila, serving as the foundational pillar of the Indonesian state, offers essential guidance for the practice and application of law throughout the country. The principles embedded within Pancasila are inherently consistent with existing legal norms, encompassing both codified statutes and the customary or social norms observed within society. Such alignment is essential to ensure coherence in the enforcement of law. As introduced at the outset, this article examines the relationship between the first and the fifth principles of Pancasila in the context of legal certainty. This relationship plays a crucial role, as both principles provide direction on how law should be formulated and implemented. Furthermore, the discussion has addressed how *Qanun*,

Salah Satu Fenomena Hukum Islam Melalui Produ,” *Jurnal Ilmiah Multidisiplin* 1, no. 2 (2025).

²¹ Martin P Siringoringo, “Pengaturan Dan Penerapan Jaminan Kebebasan Beragama Sebagai Hak Asasi Manusia Dalam Perspektif Uud 1945 Sebagai Hukum Dasar Negara,” *Nommensen Journal of Legal Opinion* 03 (2022): 111–24, <https://doi.org/10.51622/njlo.v3i1.618>.

as a form of special regional regulation, can be analyzed in relation to these principles within the framework of legal certainty.

The same principle can essentially be found in customary law that lives within society, one example being *awig-awig*. *Awig-awig* refers to a system of customary law in Bali that aims to regulate traditional social life. It represents a set of norms governing behavior within the community, intended to maintain an orderly and enduring social structure (Surpha, 2002).²²

Awig-awig, when adopted as an applicable legal framework, must possess a clearly identifiable legal structure and must not create legal uncertainty.²³ *Awig-awig* should ideally be formulated with clarity and precision to prevent differing interpretations and potential misinterpretations. Provisions concerning rights, obligations, and sanctions must be explicitly and transparently defined so that all members of the community can clearly understand the boundaries of permissible and prohibited conduct. Such clarity of formulation constitutes a concrete manifestation of legal certainty within customary communities, as it enables individuals to understand the legal consequences of their actions before any violation occurs.

In addition, legal certainty within *awig-awig* is reinforced by the existence of customary institutional structures authorized to enforce these rules. Typically, customary officials or village authorities are vested with the power to examine, adjudicate, and impose sanctions for violations. Such authority is granted to customary villages under the Regional Regulation on Customary Villages in Bali, particularly Article 23, which states that the authority of customary villages includes powers based on original rights and local-scale authority within the customary village. Furthermore, authority grounded in origin rights is further regulated under Article 24.²⁴ This indicates that *awig-awig* must be

²² Ahmad Fauzi et al., “Peran Awig-Awig Dalam Menjaga Ketertiban Dan Keamanan Di Desa Pakraman,” *Lentera Ilmu* 1, no. 2 (2025): 99–104, <https://doi.org/10.59971/li.v1i2.58>.

²³ Hukum Choice, O F Law, and Dalam Kontrak, “Eksistensi Awig-Awig Desa Adat Sebagai Pilihan Eksistensi Awig-Awig Desa Adat Sebagai Pilihan Hukum (Choice of Law) Dalam Kontrak Pariwisata” 4, No. 2 (2026).

²⁴ I Putu Sastra Wibawa, I Putu Gelgel, and I Wayan Martha, “Tata Cara Penyuratan Dan Pendaftaran Awig-Awig Desa Adat Di Bali (Dari Desa Mawacara Ke Bali Mawacara),” *Mudra Jurnal Seni Budaya* 35, no. 3 (2020): 257–65, <https://doi.org/10.31091/mudra.v35i3.1103>.

supported by well-structured and systematic implementation procedures, rather than relying solely on written norms. In this regard, the procedures applied must be consistent and impartial, so that the element of social justice, as envisioned in the fifth principle of Pancasila, can be effectively realized.

On the other hand, the values of the first principle of Pancasila are reflected in the substance of awig-awig, which often incorporates obligations to maintain harmony between humans and God, among fellow humans, and with the environment in accordance with prevailing norms. Awig-awig also serves as a guideline for the implementation of Tri Hita Karana, a principle emphasizing the harmonious relationship between humans and God, among individuals, and between humans and nature. This concept is further reinforced in Bali Regional Regulation Number 4 of 2020, which governs the way of life of Balinese communities based on the principle of Tri Hita Karana.²⁵ This demonstrates that customary norms are inherently inseparable from religious elements, as reflected in provisions governing the conduct of religious ceremonies, prohibitions related to the sanctity of places of worship, and obligations to participate in customary activities.

Thus, legal certainty as established through awig-awig does not operate in a purely neutral sense, but is grounded in shared moral and spiritual values upheld by the community.

Accordingly, awig-awig can be regarded as a concrete example of how the principles of legal certainty, rooted in the first and fifth principles of Pancasila, are realized in the daily life of customary communities. It demonstrates that the values of divinity and social justice are not merely normative concepts within the framework of the state, but are also effectively implemented in local regulations that govern everyday life in a practical and functional manner.

5. The First Principle in Awig-Awig (Sub-discussion)

Awig-awig fundamentally constitutes part of the customary law system recognized by the state. It represents a set of customary rules formulated and agreed upon by members of the customary village to regulate the social, cultural, and religious life of the local community. Article 18B paragraph (2) of the 1945 Constitution of the Republic of

²⁵ Fauzi et al., “Peran Awig-Awig Dalam Menjaga Ketertiban Dan Keamanan Di Desa Pakraman.”

Indonesia affirms that the state recognizes and respects customary law communities along with their traditional rights, insofar as they continue to exist and are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia.²⁶ This demonstrates that the existence of customary law is constitutionally grounded through state recognition of customary law communities. Accordingly, awig-awig holds a legitimate position within the national legal framework as a body of norms that exist and develop within society. It also reflects legal certainty, as it contains clear provisions regarding rights, obligations, and sanctions for members of customary communities who violate these rules.

From this perspective, awig-awig demonstrates a close relationship between the divine values embodied in the first principle of Pancasila and legal certainty in the practical life of customary communities. The principle of divinity provides the moral foundation for the formation of rules, while legal certainty ensures that such rules can be applied clearly and consistently. In this regard, legal certainty requires that legal norms be clear, unambiguous, consistent, and accessible to the community.²⁷ Consequently, awig-awig functions as an illustration of how the principles of Pancasila can be applied in legal practices that are socially accepted within the community.

Revisiting the first principle of Pancasila, namely belief in the One and Only God, awig-awig demonstrates its capacity to implement divine values within the social life of Balinese communities. Provisions within awig-awig related to religious obligations are widely recognized, including the conduct of religious ceremonies, the maintenance of sacred sites, and patterns of social life grounded in religious teachings and beliefs deeply embedded in the local context. Furthermore, awig-awig strengthens social trust while maintaining order and security by regulating customary ceremonies and activities that reinforce social cohesion among community members.²⁸

²⁶ Amalia Diamantina, "Uu No 6 Tahun 2014 Tentang Desa Sebagai Manifestasi Penegakan Pasal 18 B Ayat (2) UUD Tahun 1945," no. 1 (2016): 33–40.

²⁷ Jeane Neltje and Indrawieny Panjiyoga, "Nilai-Nilai Yang Tercakup Di Dalam Asas Kepastian Hukum," *Journal Of Social Science Research* 3, no. 5 (2023): 2034–39.

²⁸ Fauzi et al., "Peran Awig-Awig Dalam Menjaga Ketertiban Dan Keamanan Di Desa Pakraman."

This indicates that customary norms regulate not only relationships among individuals in maintaining social order, but also the relationship between humans and God. The value of divinity serves as a fundamental basis for the formation of moral principles in the implementation of legal norms, including customary law that exists within society. This, in turn, reflects the broader framework of the Indonesian constitutional order, which is grounded in Pancasila as the foundation of the state.

From a constitutional law perspective, *awig-awig* reflects a harmonization between the state's constitutional values and the local wisdom of customary communities. The state provides space for customary communities to regulate their own affairs through customary rules, as long as such regulations do not conflict with higher constitutional norms. In this regard, Article 11 paragraph (2) stipulates that *awig-awig* must not contradict the 1945 Constitution, Pancasila, or fundamental human rights.²⁹

In general, *awig-awig* can be viewed as a concrete manifestation of the implementation of divine values within Indonesia's pluralistic legal system. In this context, Pancasila plays a crucial role in shaping the development of Indonesian law, particularly given its pluralistic legal character.³⁰ This also reflects that religious values are not merely ideological principles, but are embodied in social and legal norms that exist within and are adhered to by customary communities.

6. *The Fifth Principle in Awig-Awig (Sub-discussion)*

Awig-awig, as a form of customary regulation operating within Balinese society, is closely related to the values of Pancasila. This analysis highlights the synchronization between the fifth principle of Pancasila and awig-awig in emphasizing the realization of justice in social life. Awig-awig functions as a guideline for behavior and social order, regulating social relations, obligations, and sanctions for

²⁹ I Nengah Wijana and Deli Bunga Saravistha, "Keberadaan Awig-Awig Dalam Mengatasi Aksi Tindak Pidana Ringan Di Desa Marga Kabupaten Tabanan, Bali," *AL-DALIL: Jurnal Ilmu Sosial, Politik, Dan Hukum* 1, no. 2 (2023): 23–29, <https://doi.org/10.58707/aldalil.v1i2.452>.

³⁰ Sunaryo, "Globalisasi Dan Pluralisme Hukum Dalam Pembangunan Sistem Hukum Pancasila," *Masalah-Masalah Hukum* 42, no. 4 (2013): 535–41.

violations. In the context of legal certainty, awig-awig provides clear rules that are collectively agreed upon by the community, ensuring that individuals are aware of their rights and obligations. The value of “Social Justice for All Indonesians” is reflected in awig-awig through its practical application in customary law, particularly in the principle of communal solidarity. Awig-awig does not merely regulate individual interests, but places greater emphasis on social harmony and collective welfare within the customary village. This is evident in provisions concerning mutual cooperation, participation in customary activities, and the collective responsibility to maintain order and preserve the village environment.

In addition, the implementation of proportional sanctions aimed at restoring social balance also reflects the values of the fifth principle of Pancasila. Based on the principles of justice and communal harmony, sanctions imposed on members of the customary village who violate rules are resolved through traditional institutions known as the Village Peace Judges (Village Peace Judge) in sangkepan or village meetings. These processes consistently strive to achieve reconciliation and demonstrate a collective sense of justice.³¹ In many cases, sanctions under awig-awig are not solely punitive but also aim to restore social relationships between disputing parties, thereby fostering a sense of justice within the community. This principle aligns with the objectives of social justice, which emphasize not only the certainty of rules but also justice that is tangibly experienced and applied equally among members of Balinese society.

C. Justice and Divinity in the Corruption Case of Yaqut Cholil Qoumas (Second Principle)

The relationship between the first and fifth principles of Pancasila in the context of legal certainty can be understood through the underlying values of religiosity and justice. The first principle, *Belief in the One and Only God*, encompasses ethical dimensions and moral responsibility in the formulation and implementation of law. Meanwhile, the fifth principle emphasizes that law must be enforced

³¹ Budi Kresna Aryawan, “Penerapan Sanksi Terhadap Pelanggaran Awig-Awig Desa Adat Oleh Krama Desa Di Adat Mengwi Kecamatan Mengwi Kabupaten Badung Propinsi Bali” 063 (2006), <http://eprints.undip.ac.id/16843/>.

fairly and without discrimination to ensure a balance of rights and obligations within society, and that the distribution of justice must be equitable. Thus, legal certainty cannot be separated from divine values that guide honesty and from the value of justice, which demands equal treatment under the law regardless of status.

This relationship can also be analyzed through concrete cases in Indonesian legal practice, such as the alleged corruption case involving the former Minister of Religious Affairs, Yaqut Cholil Qoumas. The case highlights that the principle of legal certainty must be implemented consistently while remaining grounded in the values of divinity and justice, ensuring that law enforcement not only fulfills formal requirements but also reflects moral integrity and a sense of fairness.

The alleged corruption case concerns the management and allocation of additional Hajj quotas for 2023–2024 by the Ministry of Religious Affairs. The Corruption Eradication Commission (KPK) found indications of irregularities in the distribution of 20,000 additional Hajj quotas provided by the Saudi government. According to Article 64 of Law No. 8 of 2019 concerning the Organization of Hajj and Umrah, the Hajj quota should be allocated approximately 92% for regular Hajj and 8% for special Hajj. In practice, however, the additional quota was reportedly divided equally, with 10,000 allocated to regular Hajj and 10,000 to special Hajj. This allocation deviated from the established rules and opened opportunities for abuse of authority in quota management. The alleged mismanagement is estimated to have caused a state loss of approximately IDR 622 billion, based on calculations presented in the legal proceedings by the The Corruption Eradication Commission (KPK0).

Law No. 8 of 2019 underscores the principles of justice, transparency, and accountability in the administration of Hajj. Therefore, any deviation from its implementation, including the mismanagement of Hajj quota, constitutes a violation of legal norms.³²

From the perspective of legal certainty and the values of Pancasila, this case illustrates how the exercise of authority that does not adhere to established rules can conflict with the principles of justice and moral

³² Perlindungan Negara, Kepada Warga, and Diplomatik D A N Konsuler, “Magistra Vitae : Journal Magister Hukum” 1, no. 1 (2025): 1–12.

integrity in governance. Therefore, law enforcement in this case is essential to ensure that the law is applied fairly and consistently, while also reflecting honesty and responsibility in alignment with the values of divinity and social justice.

1. Analysis of the Corruption Case from the First Principle (Sub-discussion)

Pancasila, as the philosophical foundation of the Indonesian state, serves as a universal moral value that must be internalized in the process of law-making and legal implementation.³³ Legal certainty, as the implementation of law grounded in moral values, honesty, and responsibility, serves as a framework of clear and binding rules, as reflected in the perspective of the first principle of Pancasila. Divine values require that every state official exercises authority responsibly (trustworthiness) and avoids any form of abuse of power. Therefore, legal certainty in the Indonesian rule of law should reflect moral integrity derived from these foundational ethical values.

In relation to the case involving the former Minister of Religious Affairs, Yaqut Cholil Qoumas, the analysis of the first principle emphasizes the importance of aligning the authority of public officials with the values of honesty and trustworthiness. When governmental practice deviates from established regulations, they not only create legal uncertainty but also reflects a disregard for divine values that form the moral foundation of the state. Therefore, strict and consistent law enforcement is essential to ensure that legal certainty is maintained in accordance with the ethical and moral values embedded in the first principle of Pancasila.

The case becomes particularly critical given that the individual involved is the former Minister of Religious Affairs, Yaqut Cholil Qoumas. A position directly connected to religious affairs inherently carries significant moral responsibility, as religious values fundamentally teach honesty. While such a role should embody and implement these ethical principles, it was allegedly misused. In this context, the abuse of

³³ Happy Sturaya Quratuainniaza et al., “Keadilan Sebagai Basis Moral Hukum: Analisis Filsafat Dan Relevansinya Bagi Sistem Hukum Indonesia,” *ALADALAH: Jurnal Politik, Sosial, Hukum Dan Humaniora* 4, no. 1 (2024): 1–14.

authority is closely linked to morality, as actions may be legally permissible but remain morally indefensible.³⁴ Therefore, if corruption is alleged within this scope, it not only undermines the principle of legal certainty but also contradicts the values embodied in Belief in the One and Only God, which emphasize the importance of morality, honesty, and responsibility in the exercise of authority.

2. Analysis of the Corruption Case from the Fifth Principle (Sub-discussion)

The fifth principle of Pancasila, *Social Justice for All Indonesians*, emphasizes the importance of achieving justice in national and societal life, including within the legal system. This principle requires that the law be enforced fairly, impartially, and equally, providing the same treatment to all citizens regardless of status within the perspective of legal certainty. Therefore, in the context of the earlier case, if allegations of corruption involve public officials, including the former Minister of Religious Affairs, law enforcement must be conducted objectively and transparently to maintain public trust in justice. Fair and impartial law enforcement ensures that all individuals are treated equally, without discrimination or special privileges for any group or individual.³⁵

Acts of corruption fundamentally contradict the principle of social justice, as they clearly harm public interests and disrupt the equitable distribution of welfare, in line with the values of the fifth principle of Pancasila. Funds intended for public benefit may be misappropriated for personal or group interests. Therefore, firm and consistent law enforcement against corruption serves as an implementation of the fifth principle, ensuring that every legal violation receives proportional sanctions, thereby creating justice for society and maintaining public trust in Indonesia's legal system. Moreover, the 1945

³⁴ Muhammad SY Faturrachman and Nurwina, "Tinjauan Terhadap Tindakan Petahana Dalam Pemilihan Umum: Perbedaan Konsep Penyalahgunaan Kewenangan dan Penyalahgunaan Kekuasaan," *LeDHaK FAKULTAS HUKUM UNHAS* 2 (2024): 15–26, <https://doi.org/10.36418/jiss.v3i2.545>.

³⁵ Kebebasan Sipil et al., "Lex Et Lustitia" 1, no. 1 (2024): 18–25, <https://ejournal.umsj.ac.id/index.php/lel/>.

Constitution explicitly positions social justice as a core pillar for realizing the state's goal of establishing a welfare state.³⁶

D. Conclusion

In conclusion, the values embedded in the first principle, Belief in the One and Only God, and the fifth principle, Social Justice for All Indonesians, play a crucial role in realizing legal certainty within Indonesia's legal system. From a moral perspective, honesty and responsibility in law enforcement align with divine principles, while the fair, non-discriminatory application of law that provides equal protection for all citizens reflects the principle of social justice. These values concretely manifested in various legal practices in Indonesia, whether through regional regulations such as Qanun in Aceh and Awig-Awig in Bali, or in addressing corruption cases affecting public interest, including the alleged misuse of Hajj quotas involving the former Minister of Religious Affairs, Yaqut Cholil Qoumas.

The implementation of the first and fifth principles in legal certainty must be consistently reinforced in every instance of law enforcement. Integrating moral and justice values is essential not only in customary or regional law but also in the enforcement of laws against public officials, in order to build public trust in the legal system. Therefore, law enforcement must be conducted consistently, transparently, and in accordance with Pancasila, so that legal certainty is not merely formal, but also embodies justice and integrity in national governance.

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³⁶ Pan Mohamad Faiz, "Teori Keadilan John Rawls," *Jurnal Konstitusi* 6, no. 1 (2009): 135–49.

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