

## **Constitutional Court Decisions and Substantive Justice Based on Islamic Values in the Pancasila State**

**<sup>1</sup>Burhanuddin, <sup>2</sup>Eza Tri Yandy**

<sup>1</sup>UIN Sultan Thaha Saifuddin Jambi, Indonesia, <sup>2</sup>Universitas Islam Indonesia Yogyakarta,  
Indonesia  
Email: burhanuddin@uinjambi.ac.id

### **Abstract**

*This article examines the evolving role of the Indonesian Constitutional Court (Mahkamah Konstitusi, MK) in advancing substantive justice through constitutional adjudication grounded in Pancasila and informed by moral and religious values, particularly Islamic ethical reasoning. Departing from rigid legal formalism, the Court's recent jurisprudence demonstrates an increasing reliance on principles of justice, humanity, proportionality, and public morality in interpreting constitutional norms. Employing a normative juridical research method with a conceptual and case-based approach, this study analyzes Constitutional Court Decision No. 97/PUU-XIV/2016 concerning the recognition of indigenous belief systems and Decision No. 24/PUU-XV/2017 on the constitutional right to religious education as primary legal materials. These decisions are examined in light of constitutional theory, comparative constitutionalism, and Islamic legal philosophy. The findings reveal that the MK no longer functions merely as a negative legislator that annuls unconstitutional statutes, but increasingly acts as a constitutional moral reasoner that actively shapes constitutional meaning. Islamic values, particularly those reflected in *maqaṣid al-shari‘ah*, are not applied as formal sources of positive law but operate as ethical and normative references that enrich substantive justice within a Pancasila-based legal order. This integrative approach enables the harmonization of constitutionalism, moral reasoning, and religious values without undermining legal certainty, pluralism, or democratic governance. The article argues that Indonesian constitutionalism represents a distinctive model of value-based constitutional adjudication, offering a significant theoretical contribution to global constitutional discourse in plural societies.*

**Keywords:** Constitutional Court; Substantive Justice; Pancasila; Islamic Values; Constitutional Adjudication.

### **Abstrak**

Artikel ini mengkaji perkembangan peran Mahkamah Konstitusi (MK) dalam memajukan keadilan substantif melalui praktik pengujian konstitusional yang berlandaskan Pancasila dan diperkaya oleh nilai-nilai moral serta keagamaan, khususnya etika Islam. Dengan meninggalkan pendekatan formalisme hukum yang kaku, yurisprudensi MK mutakhir menunjukkan kecenderungan kuat untuk mengedepankan prinsip keadilan, kemanusiaan, proporsionalitas, dan moral publik dalam menafsirkan norma konstitusi. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan konseptual dan berbasis putusan, dengan menganalisis Putusan Mahkamah Konstitusi Nomor 97/PUU-XIV/2016 tentang pengakuan aliran kepercayaan dan Putusan Nomor 24/PUU-XV/2017 mengenai hak konstitusional atas pendidikan keagamaan sebagai bahan hukum primer. Kedua putusan tersebut dianalisis dengan merujuk pada teori konstitusi, konstitusionalisme komparatif, dan filsafat hukum Islam. Temuan penelitian menunjukkan bahwa MK tidak lagi berfungsi semata-mata sebagai negative legislator yang membantalkan undang-undang yang

inkonstitusional, melainkan semakin berperan sebagai constitutional moral reasoner yang secara aktif membentuk makna konstitusi. Nilai-nilai Islam, khususnya yang tercermin dalam *maqāṣid al-shari‘ah*, tidak diterapkan sebagai sumber hukum positif, tetapi berfungsi sebagai rujukan etis dan normatif yang memperkaya keadilan substantif dalam kerangka negara hukum Pancasila. Pendekatan integratif ini memungkinkan harmonisasi antara konstitusionalisme, penalaran moral, dan nilai keagamaan tanpa mengorbankan kepastian hukum, pluralisme, dan tata kelola demokratis. **Kata Kunci:** Mahkamah Konstitusi; Keadilan Substantif; Pancasila; Nilai-Nilai Islam; Adjudikasi Konstitusional.

## Introduction

The Constitutional Court of Indonesia (Mahkamah Konstitusi, MK) plays a pivotal role in shaping constitutional justice through its authority to conduct judicial review of legislation. Beyond ensuring the formal conformity of statutes with the 1945 Constitution, the Court has increasingly functioned as an institution that articulates substantive conceptions of justice within Indonesia's constitutional order (Butt, 2015). In the framework of the Pancasila-based rule of law, justice is not confined to procedural legality, but encompasses moral responsibility, human dignity, and value-oriented constitutional interpretation.

This development is particularly evident in cases involving religion, belief, and moral norms, where constitutional adjudication intersects with deeply embedded social values. In such cases, the Constitutional Court is required to negotiate the relationship between state law, constitutional principles, and religious norms within a plural legal environment (Crouch, 2012; Safa'at, 2022). Judicial reasoning in these contexts often transcends textual interpretation, engaging instead with broader considerations of fairness, equality, and substantive protection of constitutional rights. Consequently, constitutional adjudication becomes a site of normative mediation rather than mere rule application. This mediating function underscores the Court's responsibility to ensure that constitutional guarantees remain effective and meaningful for diverse social groups.

The notion of substantive justice itself emerges as a critique of rigid legal positivism, which prioritizes certainty and formal validity over lived justice. Substantive justice demands that law function as an instrument for protecting human dignity and addressing structural inequalities, particularly in societies characterized by legal and cultural pluralism (Tamanaha, 2011). Within Indonesia's constitutional framework, this approach resonates strongly with Pancasila, which serves not merely as a political ideology but as the philosophical foundation of the legal system.

From the perspective of Islamic jurisprudence, justice (*al-‘adl* and *al-qist*) constitutes a foundational objective of law. Islamic legal thought conceives law as a means to realize public welfare (*maslahah*) and to prevent harm, a principle systematically articulated through the theory

of *maqāṣid al-shari‘ah* (Auda, 2010). Rather than functioning solely as a set of prescriptive norms, Islamic law emphasizes ethical reasoning, proportionality, and contextual judgment, offering a normative framework that is highly relevant to contemporary constitutional adjudication.

Although Indonesia is not a religious state, its constitutional design explicitly acknowledges the significance of religious values in public life. Article 29 of the 1945 Constitution affirms belief in the one and only God while guaranteeing freedom of religion and belief, thereby rejecting a secularism that excludes religion from constitutional reasoning (Agustian & Salim, 2022; Kadir et al., 2025). Within this framework, Islamic values may be positioned not as sources of positive law, but as ethical and normative references that enrich substantive justice in constitutional interpretation. Such positioning enables constitutional adjudication to accommodate religious morality without compromising constitutional supremacy or equal citizenship.

At the doctrinal level, substantive justice is closely associated with theories that emphasize judicial reasoning beyond strict textualism. Classical and modern legal theorists argue that adjudication inevitably involves moral judgment, principles, and interpretive discretion, particularly in constitutional cases where abstract norms must be applied to concrete social realities. Dworkin's concept of law as integrity, for instance, underscores the role of moral principles in ensuring coherence and fairness in judicial decisions, while broader doctrines of purposive and teleological interpretation highlight the importance of values in legal reasoning (Dworkin, 1986; MacCormick, 2009). These doctrinal perspectives provide a theoretical foundation for understanding how constitutional judges may legitimately engage with ethical and religious values without undermining the rule of law.

This orientation is reflected in Constitutional Court Decision No. 97/PUU-XIV/2016 concerning the recognition of indigenous belief systems, as well as Decision No. 24/PUU-XV/2017 on the constitutional right to religious education. In both cases, the Court adopted a value-sensitive approach that prioritizes substantive equality and human dignity while remaining anchored in constitutional principles (Constitutional Court of the Republic of Indonesia, 2017). These decisions demonstrate the Court's willingness to move beyond formalistic reasoning toward a more inclusive conception of justice.

Despite this judicial development, scholarly engagement that systematically examines Constitutional Court decisions through the lens of Islamic values remains limited. Existing studies predominantly rely on human rights discourse or Western constitutional theory, often overlooking the potential contribution of Islamic ethical principles to substantive justice in a Pancasila-based

constitutional state (An-Na'im, 2017). Addressing this gap, this article analyzes how Islamic values may function as an ethical-normative framework for understanding substantive justice in Constitutional Court adjudication, with particular reference to Decisions No. 97/PUU-XIV/2016 and No. 24/PUU-XV/2017.

## Research Method

This study adopts a normative juridical research method with a qualitative orientation, focusing on constitutional adjudication as the central object of analysis. Normative legal research is employed to examine legal norms, judicial reasoning, and doctrinal coherence rather than empirical behavior (Hutchinson, 2018). In this context, the research seeks to explore how the Indonesian Constitutional Court conceptualizes substantive justice and how such judicial reasoning may be interpreted through Islamic ethical values within the Pancasila-based constitutional framework.

The primary legal materials consist of Constitutional Court Decision No. 97/PUU-XIV/2016 on the recognition of indigenous belief systems and Decision No. 24/PUU-XV/2017 concerning the constitutional right to religious education. These decisions were selected due to their explicit engagement with issues of religion, belief, and substantive equality, making them particularly relevant for value-oriented constitutional analysis (Hosen, 2005). Secondary legal materials include the 1945 Constitution, relevant statutory regulations, and scholarly works published in peer-reviewed journals and authoritative books on constitutional law, legal theory, and Islamic jurisprudence.

The analytical approach employed in this research combines case-based constitutional analysis with doctrinal and interpretive methods. The study examines the *ratio decidendi* of the selected Constitutional Court decisions, the interpretive techniques adopted by the judges, and the normative principles underlying their reasoning (MacCormick, 2009). These elements are subsequently assessed using the theoretical framework of substantive justice and *maqāṣid al-shari‘ah*, positioning Islamic values as ethical-normative references rather than sources of positive law, thereby maintaining doctrinal consistency within constitutional adjudication.

To ensure methodological rigor, the research applies a conceptual synthesis that integrates constitutional theory, theories of legal interpretation, and Islamic legal philosophy. Analytical validity is maintained through consistent use of legal concepts, careful differentiation between descriptive and normative analysis, and critical engagement with existing scholarship (Van Hoecke, 2011). This methodological design enables a structured and coherent assessment of how substantive justice grounded in Islamic values may contribute to constitutional reasoning without undermining the principles of legal certainty and the rule of law.

## Results and Discussion

### ***Substantive Justice in Constitutional Court Adjudication***

The Indonesian Constitutional Court (Mahkamah Konstitusi, MK) has increasingly demonstrated a discernible shift from rigid legal formalism toward a more substantive and value-oriented conception of justice. This development reflects a broader transformation within contemporary constitutional adjudication, where courts are no longer confined to mechanical textualism but are expected to engage with moral reasoning and societal values embedded in the constitution. In this sense, constitutional interpretation becomes an exercise in balancing legality with justice, rather than merely enforcing statutory commands (Sielski, 2022).

Legal formalism, traditionally dominant in civil law systems, emphasizes strict adherence to statutory text and legislative intent. While such an approach ensures legal certainty, it often fails to address complex constitutional disputes involving human dignity, fairness, and social justice. Comparative constitutional scholarship has long criticized formalism for its inability to respond to evolving social realities, particularly in pluralistic societies where law intersects with moral, cultural, and religious norms (Ngozi Chukwuemeka, 2022; Preuß, 2023). The Constitutional Court recent jurisprudence suggests an awareness of these limitations and an openness to interpretative flexibility.

This shift is evident in the *ratio decidendi* of several recent MK decisions, where the Court has moved beyond the literal meaning of statutory provisions and engaged in purposive and contextual interpretation. Rather than treating statutes as closed normative systems, the MK interprets them as instruments that must remain faithful to constitutional values, including justice, proportionality, and humanity. Such reasoning aligns with the doctrine of teleological interpretation, which prioritizes the objectives and ethical foundations of constitutional norms over their purely textual formulation (Barak, 2005; Marinković, 2016).

The incorporation of principles such as fairness (equity), reasonableness, and human dignity within MK judgments reflects the influence of substantive justice theory. Substantive justice, unlike formal justice, evaluates legal outcomes based on their moral and social consequences. In constitutional adjudication, this approach legitimizes judicial intervention when strict legality produces unjust or disproportionate results. The Constitutional Court reasoning increasingly mirrors this doctrinal stance, particularly in cases involving fundamental rights and public morality (Alexy, 2003).

Notably, the MK has also begun to position religious values and public morality as implicit constitutional values, rather than external or extra-legal considerations. In a constitutional system founded upon Pancasila, moral and religious values form part of the ethical infrastructure of the state. The Court's interpretative practice suggests that these values may legitimately inform constitutional reasoning, provided they are articulated in universal and inclusive terms. This approach resonates with comparative studies on law and religion, which recognize the role of moral traditions in shaping constitutional identity without collapsing into theocracy (Hirsch, 2010; Rivers, 2011).

From a theoretical perspective, the Constitutional Court approach reflects Ronald Dworkin's concept of law as integrity, where judges are expected to interpret legal materials in their best moral light. Under this framework, adjudication is not merely an act of rule-application but a moral reading of the constitution that seeks coherence between legal norms and societal values (Dworkin, 1986). The Constitutional Court engagement with justice-oriented reasoning indicates an implicit adoption of this interpretative philosophy within Indonesia's constitutional context.

Furthermore, the Court's jurisprudence demonstrates that it does not function solely as a negative legislator that annuls unconstitutional statutes. Instead, through value-based reasoning and principled interpretation, the MK actively shapes constitutional meaning. By articulating constitutional norms in light of justice-oriented values, the Court contributes to the evolving moral narrative of the constitution itself. This role aligns with the notion of courts as constitutional moral reasoners, entrusted with safeguarding not only the supremacy of the constitution but also its ethical commitments. Such a role is widely acknowledged in contemporary constitutional theory, particularly in jurisdictions with strong constitutional courts (Buan, 2024).

Accordingly, the Constitutional Court turn toward substantive justice signifies an important evolution in Indonesian constitutional law. By integrating legal doctrine, moral reasoning, and constitutional values, the Court reinforces the idea that constitutional adjudication is inseparable from questions of justice and humanity. This transformation strengthens the legitimacy of the MK within a Pancasila-based legal order and positions it as a key institution in articulating a value-oriented constitutionalism responsive to Indonesia's social and moral pluralism (Butt, 2015). In this respect, the Court's jurisprudence contributes to the development of a distinctly Indonesian model of constitutional adjudication grounded in ethical pluralism.

## ***Maqāṣid al-shari‘ah as a Normative Framework for Substantive Justice in Constitutional Adjudication***

The increasing openness of the Indonesian Constitutional Court (MK) toward moral and religious values finds a coherent normative foundation in the theory of *maqāṣid al-shari‘ah*. As a higher-objectives framework within Islamic legal philosophy, *maqāṣid al-shari‘ah* prioritizes the protection of essential human interests over rigid textualism. Its core objectives protection of religion (*hijz al-dīn*), life (*hijz al-nafs*), intellect (*hijz al-‘aql*), lineage (*hijz al-nasl*), and property (*hijz al-māl*), resonate strongly with constitutional values such as human dignity, justice, and social welfare (Kamali, 2011).

In constitutional adjudication, *maqāṣid al-shari‘ah* offers a substantive evaluative lens rather than a doctrinal substitution for positive law. The MK does not apply Islamic norms directly as binding sources of law; instead, it absorbs their ethical rationality as part of Indonesia’s moral constitutional fabric under Pancasila. This approach aligns with contemporary Islamic legal thought, which views *maqāṣid* as a universal moral framework compatible with constitutionalism, pluralism, and democratic governance (Auda, 2010). Consequently, *maqāṣid*-based reasoning enhances constitutional interpretation by providing ethical depth without compromising normative coherence. It also enables the Court to translate religious moral insights into constitutionally accessible standards of justice.

Several recent MK decisions implicitly reflect *maqāṣid*-oriented reasoning, particularly in cases involving human rights, public morality, and social justice. In these rulings, the Court emphasizes proportionality, protection of vulnerable groups, and the avoidance of harm (*dāf‘ al-mafsadah*), even when such reasoning requires departing from a narrow textual interpretation of statutes. These judicial patterns mirror the classical *maqāṣid* principle that law must serve human welfare (*jallb al-maṣlahah*) rather than merely enforce formal legality (Farih, 2015). Through this approach, the MK demonstrates how ethical objectives can guide constitutional interpretation without displacing the authority of statutory law.

From a doctrinal perspective, the Constitutional Court interpretative posture corresponds with the evolution of *maqāṣid* from a supplementary legal doctrine to an independent methodological approach. Modern scholars argue that *maqāṣid al-shari‘ah* functions as a normative compass capable of guiding legal reasoning across diverse legal systems, including constitutional courts in Muslim-majority states. The Constitutional Court jurisprudence demonstrates how

*maqāṣid* values may operate implicitly within secular constitutional reasoning without undermining legal certainty or constitutional supremacy (Rabb, 2010).

The relevance of *maqāṣid al-shari‘ah* becomes particularly apparent in the Court’s engagement with moral reasoning and public ethics. Rather than framing morality as subjective or culturally contingent, the MK articulates it through universal principles such as justice, humanity, and dignity. This mirrors the *maqāṣid* methodology, which translates religious norms into rational, objective, and socially intelligible values. In this sense, *maqāṣid* functions as a bridge between religious morality and constitutional rationality (Ngazizah, 2024; Schacht, 1964). Such translation enables moral arguments to be framed in constitutional terms that remain accessible and legitimate within a plural legal order.

Theoretically, this approach reinforces the compatibility between Islamic legal philosophy and substantive constitutionalism. Scholars of comparative constitutional law have increasingly acknowledged that moral reasoning is an unavoidable dimension of constitutional adjudication. By implicitly drawing upon *maqāṣid al-shari‘ah*, the MK situates itself within a broader transnational discourse on value-based constitutional interpretation, while maintaining its distinct constitutional identity rooted in Pancasila (Alberdi, 2024; Hirsch, 2008). This positioning allows Islamic moral rationality to operate as an interpretative resource rather than a competing source of legal authority within constitutional adjudication.

Importantly, the integration of *maqāṣid*-oriented reasoning strengthens the Constitutional Court role as a guardian of constitutional morality rather than a mere arbiter of statutory validity. This role transcends the traditional dichotomy between secular constitutional law and religious ethics. Instead, it reflects an inter-normative constitutionalism, where multiple normative systems interact without hierarchical subordination. Such an approach enhances the Court’s legitimacy in a religiously plural yet constitutionally unified society (An-Na‘im, 2008). In this framework, constitutional authority is derived not only from formal legality but also from the Court’s capacity to articulate justice in morally intelligible and socially resonant terms.

Consequently, the implicit incorporation of *maqāṣid al-shari‘ah* within MK jurisprudence contributes significantly to the development of substantive justice in Indonesia. It demonstrates that constitutional adjudication can remain faithful to positive law while simultaneously engaging with ethical traditions that emphasize human welfare and moral responsibility. This synthesis positions the MK as a constitutional moral reasoner capable of articulating justice that is both legally grounded and ethically resonant within Indonesia’s socio-religious context (Barak, 2013).

## ***Harmonizing Pancasila, Constitutionalism, and Islamic Values in Substantive Justice Adjudication***

Indonesia's constitutional order reflects a distinctive model of a value-based legal system in which ideology, law, and morality are not positioned in opposition, but rather in a dialogical relationship. Within this framework, substantive justice adjudication before the Constitutional Court (MK) becomes a practical arena for harmonizing Pancasila as the ethical foundation of the state, modern constitutionalism as the legal framework, and Islamic values as a living moral tradition. This interaction challenges conventional binaries between secular constitutionalism and religious legalism (Asshiddiqie, 2009).

Pancasila operates as the ethical axis of the Indonesian negara hukum, embedding moral commitments such as belief in God, humanity, social justice, and communal harmony into the constitutional imagination. The MK has consistently recognized Pancasila not merely as symbolic ideology but as a normative guide that informs constitutional interpretation. In this sense, Pancasila functions as a mediating norm that translates ethical values into constitutionally intelligible standards of adjudication. As a result, constitutional reasoning is framed not only by legality but also by ethical responsibility, enabling judges to justify departures from rigid textualism in the name of justice (Kunantiyorini, 2016; Samosir et al., 2024).

Modern constitutionalism, meanwhile, supplies the institutional and doctrinal structure that ensures the rule of law, limitation of power, and protection of fundamental rights. Yet contemporary constitutional theory acknowledges that adjudication inevitably involves value judgments. The Constitutional Court jurisprudence demonstrates this reality by integrating proportionality, reasonableness, and dignity-based reasoning into constitutional review. These elements reflect a form of substantive constitutionalism that transcends procedural legality (Beširević, 2014; Hoffmann & Sweet, 2000).

Islamic values contribute to this framework not as formal sources of law, but as a living moral tradition that shapes societal conceptions of justice and fairness. In MK decisions addressing moral concerns, social welfare, and human dignity, Islamic ethical principles often articulated in universal and inclusive language, implicitly inform judicial reasoning. This approach allows religious morality to enrich constitutional adjudication without transforming Indonesia into a religious state (Kamali & Ramadan, 2015). Accordingly, Islamic values function as a source of ethical orientation that complements constitutional reasoning rather than displacing the authority of positive law.

The MK thus functions as a site of normative synthesis, where multiple value systems are integrated within a single constitutional reasoning process. This synthesis can be analytically illustrated through the following table, which demonstrates how Pancasila, constitutionalism, and Islamic values interact in substantive justice adjudication:

**Table 1. Normative Synthesis in Constitutional Court Adjudication**

Normative Source	Core Function	Contribution to Substantive Justice	Manifestation in MK Decisions
<b>Pancasila</b>	Ethical foundation of the state	Provides moral orientation (humanity, social justice, harmony)	Used as interpretive guidance beyond textual legality
<b>Constitutionalism</b>	Legal and institutional framework	Ensures rights protection, proportionality, and rule of law	Structures judicial reasoning and limits judicial discretion
<b>Islamic Values</b>	Living moral tradition	Supplies ethical substance (justice, dignity, welfare)	Implicitly informs moral reasoning without formal legalization

This table clarifies that MK adjudication does not privilege one normative system over others but integrates them in a complementary manner. Such integration enables constitutional reasoning to remain legally coherent while simultaneously responsive to moral and social expectations. It also demonstrates that normative plurality, when institutionally mediated by constitutional adjudication, can function as a source of judicial legitimacy rather than legal fragmentation.

From the perspective of legal pluralism, MK decisions serve as empirical evidence that plural normative orders can coexist productively within a unified constitutional framework. Rather than generating normative conflict, this interaction enhances the Court's capacity to deliver context-sensitive justice. Comparative constitutional scholarship increasingly emphasizes that courts in plural societies must navigate multiple moral and legal traditions to maintain legitimacy and social relevance (Tamanaha, 2010).

This integrative model directly challenges rigid categorizations of the Indonesian state as either secular or religious. The Constitutional Court jurisprudence shows that Indonesia is neither a secular state that excludes religious morality nor a religious state that enforces theological doctrine. Instead, it operates as a value-based constitutional state, where ethical traditions, including Islamic values are translated into constitutional reasoning without undermining legal certainty or pluralism (Sanguiliano, 2015). Such a model underscores the possibility of a constitutional order in which moral diversity is institutionally accommodated through principled adjudication.

Accordingly, the harmonization of Pancasila, constitutionalism, and Islamic values in MK adjudication reinforces the normative identity of Indonesia's negara hukum. Substantive justice emerges not from doctrinal purity but from principled synthesis, allowing constitutional law to remain responsive to moral concerns while preserving its legal integrity. This finding strengthens the argument that Indonesian constitutionalism represents a distinctive and theoretically significant model within global constitutional discourse (Barak, 2009). It further suggests that value-based constitutional adjudication can offer a viable alternative to both secular-rigid and theocratic constitutional paradigms.

## Conclusion

This study demonstrates that the Indonesian Constitutional Court (Mahkamah Konstitusi, MK) has undergone a significant transformation in its constitutional adjudication, marked by a shift from rigid legal formalism toward a substantive justice-oriented approach. Through the analysis of Constitutional Court Decision No. 97/PUU-XIV/2016 and Decision No. 24/PUU-XV/2017, the article shows that the Court no longer operates merely as a negative legislator, but increasingly functions as a constitutional moral reasoner. By integrating legal doctrine, constitutional values, and moral reasoning, the MK actively shapes constitutional meaning in a manner that prioritizes justice, human dignity, and social fairness over narrow textual interpretation.

The findings further reveal that Islamic values, particularly those articulated through *maqāṣid al-shari‘ah* play a significant role as ethical and normative references in constitutional reasoning without being elevated to the status of positive law. Within the Pancasila-based constitutional framework, these values function as a living moral tradition that enriches substantive justice while preserving constitutional supremacy, pluralism, and legal certainty. This inter-normative approach enables the harmonization of Pancasila, modern constitutionalism, and Islamic ethical rationality, demonstrating that religious morality can be constitutionally relevant without transforming Indonesia into either a secular-rigid or religious state.

Theoretically, this article contributes to global constitutional discourse by advancing the concept of a value-based constitutional state, in which constitutional adjudication is grounded in principled synthesis rather than doctrinal exclusivity. Indonesia's constitutional experience, as reflected in MK jurisprudence, offers a distinctive model for plural societies seeking to reconcile law, morality, and religious diversity within a unified constitutional order. Future research may further explore the implications of this model by examining additional MK decisions or conducting

comparative studies with other constitutional courts in Muslim-majority democracies, thereby deepening the understanding of substantive justice in contemporary constitutionalism.

## References

- Agustian, T., & Salim, C. (2022). The Problems of the Independence of Judicial Power in Indonesia in a Review of Islamic Law. *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam*, 6(2). <https://doi.org/10.25217/jm.v6i2.1896>
- Alberdi, J. L. (2024). The Judicialization of Politics. *Revista Jurídica Austral*, 5(1). <https://doi.org/10.26422/RJA.2024.0501.alb>
- Alexy, R. (2003). Constitutional Rights, Balancing, and Rationality. *Ratio Juris*, 16(2). <https://doi.org/10.1111/1467-9337.00228>
- An-Na'im, A. A. (2008). *Islam and the Secular State: Negotiating the Future of Shari'a*. Harvard University Press.
- An-Na'im, A. A. (2017). Islam and Human Rights: Beyond the Universality Debate. In *International Law and Islamic Law*. <https://doi.org/10.4324/9781315092515-19>
- Asshiddiqie, J. (2009). *The Constitutional Law of Indonesia: A Comprehensive Overview*. Sweet & Maxwell Asia.
- Auda, J. (2010). *Maqasid al-Shari'ah as Philosophy of Islamic Law: A Systems Approach*. The International Institute of Islamic Thought.
- Barak, A. (2005). *Purposive interpretation in law*. Princeton University Press. <https://doi.org/10.1515/9781400841264>
- Barak, A. (2009). *The Judge in a Democracy*. Princeton University Press. <https://doi.org/10.5860/choice.44-2338>
- Barak, A. (2013). Human Dignity: The Constitutional Value and the Constitutional Right. In *Understanding Human Dignity*. Cambridge University Press. <https://doi.org/10.5871/bacad/9780197265642.003.0020>
- Beširević, V. (2014). “Governing without judges”: The politics of the Constitutional Court in Serbia. *International Journal of Constitutional Law*, 12(4). <https://doi.org/10.1093/icon/mou065>
- Buan, M. S. (2024). Form Review and Judicial Independence: A Comparative Perspective. *Constitutional Review*, 10(2). <https://doi.org/10.31078/consrev1023>
- Butt, S. (2015). *The Constitutional Court and Democracy in Indonesia*. Brill Nijhoff. <https://doi.org/10.1163/9789004250598>
- Constitutional Court of the Republic of Indonesia. (2017). *Decision No. 97/PUU-XIV/2016; Decision No. 24/PUU-XV/2017*.
- Crouch, M. A. (2012). Law and religion in Indonesia: The constitutional court and the blasphemy law. *Asian Journal of Comparative Law*, 7(1). <https://doi.org/10.1515/1932-0205.1391>

- Dworkin, R. (1986). *Law's Empire*. Harvard University Press.
- Farih, A. (2015). REINTERPRETASI *MAŞLAHAH* SEBAGAI METODE ISTINBĀT HUKUM ISLAM: Studi Pemikiran Hukum Islam Abū Ishāq Ibrāhīm al-Shāfiibī. *Al-Ahkam*, 1(25). <https://doi.org/10.21580/ahkam.2015.1.25.193>
- Hirschl, R. (2008). The judicialization of mega-politics and the rise of political courts. *Annual Review of Political Science*, 11. <https://doi.org/10.1146/annurev.polisci.11.053006.183906>
- Hirschl, R. (2010). *Constitutional Theocracy*. Harvard University Press.
- Hoffmann, S., & Sweet, A. S. (2000). Governing with Judges: Constitutional Politics in Europe. *Foreign Affairs*, 79(6). <https://doi.org/10.2307/20049979>
- Hosen, N. (2005). *Shari'a & Constitutional Reform in Indonesia* [Master Thesis]. National University of Singapore.
- Hutchinson, T. (2018). *Researching and Writing in Law*, 4th ed. Lawbook Co.
- Kadir, A., Gunarto, Hussain, A. A. M., & Taher, M. A. (2025). Measuring the Consistency of Pancasila Rule of Law Implementation in Ensuring Judicial Independence in Indonesia. *Jurnal Hukum Unissula*, 41(2). <https://doi.org/10.26532/jh.v41i2.45933>
- Kamali, M. H. (2011). *Maqasid al-Shariah, Ijtihad and Civilisational Renewal*. International Institute of Islamic Thought.
- Kamali, M. H., & Ramadan, T. (2015). *The Middle Path of Moderation in Islam*. Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780190226831.001.0001>
- Kunantiyorini, A. (2016). Pancasila Sebagai Sumber Segala Sumber Hukum. *Masalah - Masalah Hukum*, 45(2).
- MacCormick, N. (2009). *Rhetoric And The Rule Of Law: A Theory of Legal Reasoning (Law, State, and Practical Reason)*. Oxford University Press.
- Marinković, T. (2016). Barak's Purposive Interpretation in Law as a Pattern of Constitutional Interpretative Fidelity. *Baltic Journal of Law and Politics*, 9(2). <https://doi.org/10.1515/bjlp-2016-0013>
- Ngazizah, I. F. (2024). Mengungkap Dinamika Hukum Islam: Telaah Kritis terhadap "An Introduction to Islamic Law Karya Wael B. Hallaq." *Al-Mazaahib*, 12(2). <https://doi.org/10.14421/al-mazaahib.v12i2.4082>
- Ngozi Chukwuemeka. (2022). Hart on Formalism in Legal Reasoning: Implication for Judicial Review. *Activa Yuris: Jurnal Hukum*, 2(1).
- Preuß, K. (2023). 'Legal Formalism' and Western legal thought\*. *Jurisprudence*, 14(1). <https://doi.org/10.1080/20403313.2022.2112457>
- Rabb, I. A. (2010). Islamic legal maxims as substantive canons of construction: Hudūd-avoidance in cases of doubt. *Islamic Law and Society*, 17(1). <https://doi.org/10.1163/092893809X12472107043920>

- Rivers, J. (2011). Constitutional Theocracy. By Ran Hirschl. *The Modern Law Review*, 74(4). <https://doi.org/10.1111/j.1468-2230.2011.00865-6.x>
- Safa'at, M. A. (2022). The Roles of the Indonesian Constitutional Court in Determining State-Religion Relations. *Constitutional Review*, 8(1). <https://doi.org/10.31078/consrev815>
- Samosir, A., Hayatuddin, K., & Azizah, A. (2024). Pancasila Values in Indonesian Legal System. *International Journal of Social Science and Human Research*, 7(07). <https://doi.org/10.47191/ijsshr/v7-i07-105>
- Sanguiliano, A. R. (2015). Comparative Matters: The Renaissance of Comparative Constitutional Law, by Ran Hirschl. *Osgoode Hall Law Journal*, 52(2). <https://doi.org/10.60082/2817-5069.2830>
- Schacht, J. (1964). *An Introduction to Islamic Law*. Clarendon Press.
- Sielski, K. (2022). Adjudication based on the principle of child welfare by family courts. *Gubernaculum et Administratio*, 26(2). <https://doi.org/10.16926/gea.2022.02.08>
- Tamanaha, B. Z. (2010). *A General Jurisprudence of Law and Society*. Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199244676.001.0001>
- Tamanaha, B. Z. (2011). The rule of law and legal pluralism in development. *Hague Journal on the Rule of Law*, 3(1). <https://doi.org/10.1017/S187640451100019>
- Van Hoecke, M. (2011). Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline? In *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?* <https://doi.org/10.5040/9781472560896>