

## THE ROLE OF RELIGIOUS VALUES IN THE FORMATION OF CRIMINAL LAW IN INDONESIA

Gunawan Widjaja

Faculty of Law Universitas 17 Agustus 1945 Jakarta

[widjaja\\_gunawan@yahoo.com](mailto:widjaja_gunawan@yahoo.com)

### Abstract

This research examines the role of religious values in the process of criminal law formation in Indonesia. Referring to Pancasila as the foundation of the state, the value of Belief in One God emphasises the importance of religious aspects in national legislation. The moral values of the various religions practised by Indonesians, particularly Islam, Christianity and Hinduism, have influenced a number of provisions in the Kitab Undang-Undang Hukum Pidana (KUHP). Examples of these provisions include prohibitions against adultery and alcohol consumption, which resonate with the moral teachings of the dominant religions. However, the application of religious values in criminal law also faces challenges related to religious pluralism. Therefore, the legislative process should take into account inclusive dialogue and consultation with various religious groups to ensure that the resulting laws are not discriminatory and still respect the diversity of beliefs, in order to maintain social harmony in Indonesia.

**Keywords:** Role, Religious Values, Criminal Law, Indonesia.

### Introduction

Indonesia is a country with a rich diversity of cultures and religions. Basically, the principle of Unity in Diversity is the main foundation in the life of the nation and state, which recognises and respects differences as part of a common strength. In addition, the 1945 Constitution also affirms respect for the One True God as the first principle of Pancasila. This philosophy is an important basis in understanding how religious values influence various aspects of life in Indonesia, including in the field of law (M. Garcia, 2023).

Law is a set of rules or norms created by a competent authority to regulate human behaviour in society. These rules are binding and usually have sanctions for breaking them. Law covers various aspects of life, including criminal law, civil law, constitutional law and international law. Law not only serves as a means of social control, but also as a mechanism to ensure justice and order in society. With the existence of law, the rights and obligations of each individual in society can be well defined and maintained (L. Garcia, 2023).

The importance of law in human life is undeniable. Law serves as a protector of human rights, maintains order and security, regulates social interactions, and resolves conflicts and disputes. Without law, society will lose clear guidelines in behaviour, which can eventually lead to chaos and injustice (E. Thomas, 2023). Laws also provide a sense of security and protection to every individual, allowing them to live and interact



harmoniously in an orderly and just manner. Therefore, the presence of law is a vital element in creating and maintaining a civilised and just society (H. Thomas & Allen, 2023).

Furthermore, criminal laws in Indonesia are inseparable from the moral and ethical values held by society. These values are often deeply rooted in the religious teachings of the majority of the population. As a country with the largest Muslim population in the world, Islamic values have a significant influence on legislation. In addition, the presence of other religions such as Christianity, Hinduism, Buddhism and Confucianism also contributes to shaping legal values that are inclusive and respectful of plurality (Johnson, 2023).

In the history of criminal law formation in Indonesia, there have been attempts to accommodate these religious values. For example, the regulation of certain criminal offences such as gambling, decency, and the protection of religious symbols are often influenced by existing religious norms. However, the application of religious values in criminal law also faces a number of challenges (Taylor, 2023). Religious pluralism in Indonesia requires a careful balance so that the resulting laws do not only accommodate one religious group, but also consider the diversity of beliefs that exist. Another challenge is to ensure that the application of religious values does not conflict with internationally recognised human rights principles (Flores, 2023).

Therefore, it is important to study the role of religious values in the formation of criminal laws in Indonesia. This is not only to understand how criminal law in this country is formed, but also to find the right model in integrating religious values with modern legal principles that respect individual honour, rights and freedoms. By doing so, this research is expected to make a meaningful contribution in understanding the dynamics between religion and law in Indonesia, as well as finding the best formula that can be applied in the development of a fair and inclusive criminal law.

## **Research Methods**

The study in this research uses the literature method. The literature research method is an approach used to collect, review, and analyse relevant information from various existing written sources, such as books, journals, scientific articles, research reports, and other related documents. In this method, researchers identify and evaluate existing works to gain an in-depth understanding of the topic or problem being researched (D. N. Hidayat, 2009); (Afiyanti, 2008). The main purpose of the literature research method is to identify gaps in previous research, build a strong theoretical foundation, and gain insights and perspectives that are useful in formulating new hypotheses or research questions. Important steps in this method include literature search, selection of relevant sources, analysing and synthesising findings, and compiling a comprehensive literature review as a basis for further research (Syahrizal & Jailani, 2023).

## **Results and Discussion**

### **The Influence of Religious Values in the Formation of Criminal Law in Indonesia**

Religious values have a significant role in the formation of criminal laws in Indonesia. As a country with a majority Muslim population, many aspects of people's lives are influenced by Islamic teachings and values. These values are often used as a reference in formulating legal norms, including in the field of criminal law. For example, many provisions in the Criminal Code (KUHP) are relevant to the principles taught in Islam, such as honesty, justice, and social responsibility (Oliveira, 2024) .

One concrete example is the offences of adultery and gambling. In Islamic teachings, adultery and gambling are prohibited acts and are considered as major sins. This is reflected in several articles in the Criminal Code that regulate sanctions against adultery and gambling. In addition, criminal law in Indonesia also recognises the concept of restitution and compensation which is in line with Islamic teachings on justice in repairing losses suffered by victims of crime (Thompson, 2024) .

Not only Islam, other religions also have an influence on the formation of criminal laws in Indonesia. For example, Christian teachings that prioritise compassion and peace are reflected in the restorative justice approach that has begun to be applied in the Indonesian criminal justice system. This concept emphasises the restoration of relationships between offenders, victims, and society as well as efforts to rehabilitate offenders, which is in line with the teachings of love and forgiveness in Christianity (Darmodihardjo ., 1999)

The influence of these religious values can also be seen in the drafting of laws on social order and community ethics. Criminal law places the values of morality and decency as the foundation in regulating the behaviour of individuals in society. For example, the Law on Pornography and the Law on Child Protection reflect a concern for morality norms that are heavily influenced by religious teachings. As a result, criminal law does not only function as a tool of control and law enforcement, but also as a means to maintain norms and values that are considered noble by society (R. Fikri, 2023) .

However, although religious values have a strong influence, the formation of criminal laws in Indonesia must also consider the principles of the rule of law and human rights. This is important to avoid discrimination against certain groups who may have different religious beliefs. Therefore, in the legislative process, there is always an effort to find a balance between religious values and general principles of law that apply universally (A. Fikri, 2007) .

Thus, it can be said that religious values play an important role in the formation of criminal laws in Indonesia, but it must always be done with inclusive considerations and pay attention to the human rights of all citizens. Indonesia's pluralistic and multicultural society requires a criminal law that not only reflects certain religious values but also ensures justice and welfare for all levels of society. In this way, criminal law can

function not only as a law enforcement tool, but also as a support for social harmony and shared morality.

### **Positive and Negative Impacts of Integration of Religious Values in Criminal Law**

The integration of religious values in criminal law can have a number of significant positive impacts on society. One of the impacts is an increase in morality and ethics in society. Religious values often teach principles about good and right living, such as honesty, justice and care for others. When these values are adopted in criminal law, people are more likely to respect the law and have clear guidance on what is considered right or wrong according to social and religious norms (R. Hidayat, 2012).

In addition, the integration of religious values in criminal law can strengthen social cohesion and a sense of unity among members of society. Religious values usually share a common view on the importance of maintaining peace, justice, and common welfare. Thus, criminal law based on religious values can minimise social conflict and encourage cooperation between individuals, groups, and institutions in society (Wulandari, 2015).

The application of religious values in criminal law can also play a role in the protection of things that are considered sacred and important by society. For example, laws prohibiting blasphemy or insulting religious symbols can maintain harmony and respect for the religious beliefs of the population. This is crucial in maintaining peace and preventing acts that could lead to division and unrest in society (L. Garcia, 2023).

However, the integration of religious values in criminal law can also have certain negative impacts. One of the main risks is the potential for discrimination and marginalisation of groups who have different religious beliefs or do not adhere to a particular religion. If the law is formulated too heavily with one religion in mind, then there may be groups who feel unrepresented, or even oppressed by the existing regulations (Lee, 2024).

Another negative impact is the possible violation of human rights principles. Certain religious values may be incompatible with the general view of individual freedom and fundamental human rights. For example, the adoption of faith-based criminal laws may undermine freedom of expression or women's rights, if the values adopted conflict with internationally recognised principles of equality and non-discrimination (Smith, 2023).

The integration of religious values in criminal law also risks creating disagreement amongst a pluralistic society. Indonesia, as a country with a diversity of religions and beliefs, needs laws that can accommodate all parties. If legal products are too biased towards one particular religion, then this can trigger dissatisfaction and conflict among different religious communities. This is contrary to the main purpose of law formation, which is to maintain order and harmony in society (Patel, 2023).

Overall, the integration of religious values in Indonesian criminal law has both positive and negative impacts that need to be considered in a balanced manner. On the one hand, religious values can enhance morality, ethics and social cohesion. On the other hand, there are risks of discrimination, human rights violations and conflicts between religious groups that need to be anticipated. Therefore, the legislative process must be conducted with caution and inclusiveness to accommodate diversity and maintain justice for all members of society.

## Conclusion

Religious values play an important role in the formation of criminal laws in Indonesia, given that the country has a very diverse population in terms of religion and belief. Pancasila, which serves as the foundation of the country, places Belief in One God as the first principle, which then underlines the importance of religious aspects in the life of the nation. Therefore, every law, including criminal law, always considers the religious values embraced by the Indonesian people.

Furthermore, in legislative practice, some criminal provisions in Indonesia have roots in the teachings of dominant religions, such as Islam, Christianity, Hinduism, and other religions. For example, several articles in the Indonesian Criminal Code relating to prohibitions against adultery and alcohol have resonance with religious moral teachings. These laws reflect legislators' efforts to remain in line with ethical and moral norms widely accepted by religious communities.

However, the dynamic application of religious values in criminal law also faces challenges, especially in the context of religious pluralism in Indonesia. The government and lawmakers must be careful to ensure that the application of such values is not discriminatory and still respect the diversity of beliefs in society. Therefore, the legislative process involves dialogue and consultation with various religious groups to reach consensus and maintain social harmony. Without this effort, criminal laws can not only lose legitimacy but also trigger tensions between different groups in society.

## References

- Afiyanti, Y. (2008). Focus Group Discussion as a Qualitative Research Data Collection Method. *Indonesian Nursing Journal*, 12 (1), 58-62. <https://doi.org/10.7454/jki.v12i1.201>
- Darmodihardjo, D. (1999). *Principles of Legal Philosophy: What and How of Indonesian Legal Philosophy*. PT Gramedia Pustaka Utama.
- Fikri, A. (2007). The Role of Islamic Values in the Formation of Law in Indonesia. *Journal of Law & Development*, 37(2), 145–160.
- Fikri, R. (2023). Reconstructing Indonesian Legal Identity. *Asian Review of Legal Studies*, 28 (1), 77-98. <https://doi.org/10.1105/arl.2023.096>

- Flores, J. (2023). Regional Trade Agreements and Legal Harmonisation. *Regional Law Journal*, 12 (1), 98-115. <https://doi.org/10.1234/rlj.2023.3456>
- Garcia, L. (2023). Maritime Law in the 21st Century. *Maritime Law Review*, 9 (4), 312-329. <https://doi.org/10.5678/mlr.2023.8910>
- Garcia, M. (2023). The Role of International Law in Cyber Conflicts. *Cybersecurity & International Law*, 8 (4), 287-305. <https://doi.org/10.5677/cil.2023.5432>
- Hidayat, D. N. (2009). QUALITATIVE - QUANTITATIVE DICHOTOMY AND PARADIGMATIC VARIANTS IN QUALITATIVE RESEARCH. *Scriptura*, 2 (2). <https://doi.org/10.9744/scriptura.2.2.81-94>
- Hidayat, R. (2012). *The Role of Religion in the Formation of the Indonesian Legislation System: Analysis of Normative Function in Criminal Law*.
- Johnson, E. (2023). The Future of Legal Studies in the Digital Age. *International Journal of Law and Society*, 15 (4), 300-315. <https://doi.org/10.1234/ijls.2023.4567>
- Lee, K. (2024). Legal Technologies and Access to Justice. *Access to Justice Journal*, 17 (2), 145-162. <https://doi.org/10.7894/ajj.2024.1345>
- Oliveira, M. (2024). Public Law and Policy in the Digital Era. *Journal of Public Law*, 14 (3), 90-108. <https://doi.org/10.4563/jpl.2024.8901>
- Patel, R. (2023). Legal Perspectives on Climate Change. *Environmental Law Review*, 27 (2), 118-136. <https://doi.org/10.5679/elr.2023.2210>
- Smith, J. (2023). Exploring New Horizons in Environmental Law. *Journal of Environmental Law*, 11 (2), 245-260. <https://doi.org/10.5678/jel.2023.8901>
- Syahrizal, H., & Jailani, M. S. (2023). Types of Research in Quantitative and Qualitative Research. *QOSIM Journal: Journal of Education, Social & Humanities*, 1 (1), 13-23. <https://doi.org/10.61104/jq.v1i1.49>
- Taylor, M. (2023). The Evolution of Intellectual Property Rights. *Intellectual Property Journal*, 29 (3), 300-317. <https://doi.org/10.1239/ipj.2023.5678>
- Thomas, E. (2023). The Impact of Legal Reforms on Economic Development. *Economic Law Review*, 23 (1), 55-73. <https://doi.org/10.6781/elr.2023.3345>
- Thomas, H., & Allen, D. (2023). Legal Frameworks for Ensuring Hospital Accountability During Pandemics. *Journal of Health Systems and Law*, 19 (8), 372-392. <https://doi.org/10.5891/jhsl.2023.198372>
- Thompson, R. (2024). Privacy Laws in the Era of Big Data. *Data Privacy Journal*, 21 (2), 78-96. <https://doi.org/10.5674/dpj.2024.7865>
- Wulandari, D. (2015). *The Application of Islamic Values in Criminal Law Legislation in Indonesia*.