

Natural Justice, Procedural Justice, and the Judge's Role in the Pancasila-Based Rule of Law

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Article

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Abstrak

Tulisan ini membahas hubungan antara keadilan kodrati dan keadilan prosedural serta implikasinya terhadap peran hakim dalam negara hukum Pancasila. Keadilan prosedural sering disalahpahami sebagai kepatuhan semata terhadap aturan formal, meskipun pada hakikatnya merupakan perwujudan dari prinsip keadilan kodrati yang menuntut persidangan berlangsung adil, imparsiial, dan terbuka. Melalui metode penelitian hukum normatif dengan pendekatan konseptual dan perundang-undangan, tulisan ini menelaah prinsip-prinsip keadilan kodrati seperti audi alteram partem, nemo judex in causa sua, dan kewajiban memberikan pertimbangan hukum dalam putusan. Prinsip-prinsip tersebut relevan dengan keadilan prosedural, dan merupakan amanat konstitusional sebagaimana diatur dalam Pasal 28D ayat (1) UUD 1945. Berhubungan dengan Pancasila, hakim memiliki tanggung jawab profesional dan moral untuk menjamin bahwa keadilan prosedural ditegakkan sebagai fondasi bagi persidangan yang adil dan perlindungan hukum bagi setiap warga negara.

Kata Kunci: Keadilan Prosedural; Keadilan Kodrati; Hakim; Pancasila.

Abstract

This paper explores the relationship between natural justice and procedural justice, as well as its implications for the role of judges within the Pancasila-based rule of law. Procedural justice is often misconstrued as mere compliance with formal rules, even though it essentially represents an embodiment of natural justice principles that require judicial proceedings to be fair, impartial, and transparent. Employing normative legal research with a conceptual and statutory approach, this study examines core principles of natural justice, including audi alteram partem, nemo judex in causa sua, and the obligation to provide reasoned judicial decisions. These principles are integral to procedural justice and constitute a constitutional mandate as enshrined in Article 28D paragraph (1) of the 1945 Constitution. In relation to Pancasila, judges bear a professional and moral responsibility to ensure that

procedural justice is upheld as the foundation of fair trials and the legal protection of every citizen.

Keywords: Procedural Justice; Natural Justice; Judge; Pancasila.

INTRODUCTION

Justice is a fundamental concept in law that continues to be debated from various philosophical, legal, and sociological perspectives. Francesco De Micco and Roberto Scendonì state that law and legal institutions can either reflect or deviate from natural justice, depending on the social context and prevailing views in society.¹ This view reflects the importance of understanding justice not only as an end result but also as a process carried out by legal institutions, particularly the judiciary. When justice is understood as a process, then the fair application of the law cannot be separated from the principle of natural justice, which requires the court to ensure procedural justice through a fair trial. Violations of this principle occur, for example, when judges do not provide equal space for both parties to present

their views,² which reflects a deviation from natural justice.

Several studies indicate a misunderstanding of procedural justice. Muhammad Randhy and Faisal Ahmadi argue that law enforcement practices in Indonesia often remain trapped in procedural formalism that neglects the substance of justice.³ Similarly, Ade Mahmud et al. argue that a legalistic approach only produces rigid procedural justice that does not meet societal expectations.⁴ Meanwhile, Amri Panahatan Sihotang et al. urge an active role of judges in discovering substantive truth to achieve substantive justice.⁵ Gerry Jordan, et al., also emphasized that judges should not be fixated solely on procedural rules but must seek justice from concrete facts and conditions.⁶ Djatmika, quoted by Markus Suryoutomo, even argues that enforcers of formal

¹ Francesco De Micco and Roberto Scendonì, "Three Different Currents of Thought to Conceive Justice: Legal, and Medical Ethics Reflections," *Philosophies* 9, no. 3 (2024): 8, <https://doi.org/10.3390/philosophies9030061>.

² Pierre Schlag, William H Charles, and William H Charles, "Access to Justice in the Nova Scotia Small Claims Court 1980-2022," *Dalhousie LJ* 47, no. 1 (2024): 356.

³ Muhammad Randhy Martadinata and Faisal Ahmadi, "Asas Keadilan Hukum Putusan Peradilan," *Jurnal Wasatiah: Jurnal Hukum* 1, no. 2 (2020): 12-23.

⁴ Ade Mahmud et al., "Keadilan Substantif Dalam Proses Asset Recovery Hasil Tindak Pidana Korupsi," *Jurnal Suara Hukum* 3, no. 2 (2021): 227-250.

⁵ Amri Panahatan Sihotang et al., "Pertimbangan Hakim Terhadap Keabsahan Ijazah Pondok Pesantren Sebagai Syarat Peserta Pemilihan Kepala Desa," *Jurnal USM Law Review* 6, no. 1 (2023): 332-244, <https://doi.org/10.26623/julr.v6i1.6579>.

⁶ Gerry Jordan, Ismansyah Ismansyah, and Nani Mulyati, "Perlindungan Hukum Terhadap Justice Collaborator Dalam Mengungkap Tindak Pidana Narkotika Ditinjau Dari Asas Keadilan," *UNES Journal of Swara Justisia* 7, no. 2 (2023): 451-468, <https://doi.org/10.31933/ujjs.v7i2.356>.

procedural justice often come from positivistic backgrounds that overlook the values of substantive justice.⁷

These criticisms highlight the limitations of procedural justice in its formalistic form, thus, this paper offers a reinterpretation of procedural justice based on the values of natural justice within the framework of Pancasila legal philosophy. Unlike many civil law systems such as those in France or Germany which heavily emphasize written rules and limit judicial discretion, and also unlike common law systems such as those in England or the United States which allow judges to shape justice through precedent and principles of equity, the Indonesian legal framework offers a hybrid model.⁸⁹ This model allows for the integration of moral values and social harmony as mandated by Pancasila so that procedural justice can be redirected to achieve substantive justice without having to abandon formal procedures. This position allows judges in Indonesia to more actively use moral and cultural judgment in interpreting and applying the law.

Although these views voice criticism against procedural justice, "There has not yet

been a study that explicitly redefines procedural justice as a manifestation of natural justice, rather than the reverse." This is the research gap that will be addressed in this paper, namely, repositioning procedural justice as a direct derivative of the principle of natural justice within the framework of the Indonesian rule of law based on Pancasila.

The urgency of this research lies in the need to rehabilitate an understanding of procedural justice. In Indonesia, procedural justice is often considered a mere facade due to the rigidity of formal rules. However, if properly understood, procedural justice actually becomes the most fundamental instrument in ensuring a fair trial. This research is important to address that conceptual error and reaffirm that procedural justice is an integral part of natural justice.

The legal issues that are the focus of this research encompass two aspects. *First*, how the relationship between natural justice and procedural justice can affect the legitimacy of judicial institutions and strengthen or weaken the role of judges in upholding the law in a state of law. *Second*, how judges' reflections on natural justice and procedural justice can reflect the fundamental values of the

⁷ Markus Suryoutomo, Siti Mariyam, and Adhi Putra Satria, "Koherensi Putusan Hakim Dalam Pembuktian Ganti Rugi Imateriel Perbuatan Melawan Hukum," *Jurnal Pembangunan Hukum Indonesia* 4, no. 1 (2022): 133-149, <https://doi.org/10.14710/jphi.v4i1.139-144>.

⁸ Magdi Shouaib, Ahmed Eldakak, and Eman Ahmed Alabdouli, "Effect of the Civil Law Severability Doctrine on Administrative Contract Theory: A Study of French and Egyptian Laws," *Heliyon*, 2024: 7, <https://doi.org/10.1016/j.heliyon.2024.e27995>.

⁹ Sri Wahyuni, "Hukum Keluarga Islam Dalam Masyarakat Muslim Diaspora Di Barat (Perspektif Hukum Perdata Internasional)," *Al-Mazaahib: Jurnal Perbandingan Hukum* 2, no. 2 (2014): 346, <https://doi.org/10.14421/al-mazaahib.v2i2.1372>.

Pancasila state of law in judicial practice. Analyzing these two issues conceptually and normatively is important for understanding the limits and responsibilities of judges in ensuring justice that is both formal and substantive, rooted in the values of fair and civilized humanity.

This research employs a normative legal research method that incorporates both conceptual and statutory approaches.¹⁰ Primary legal materials consist of provisions in the 1945 Constitution of the Republic of Indonesia and legislation related to judicial power. Secondary legal materials include relevant legal literature, including scientific works and expert opinions. The analysis is conducted qualitatively with the aim of understanding the position of procedural justice within the Indonesian legal system, which has values that are linear with natural justice. Given the philosophical ambitions of this study, the normative method is considered appropriate for exploring the fundamental principles and theoretical foundations within the national legal system. An empirical approach was not used because this study was not intended to measure perceptions or practices in the field but rather to deeply examine and construct a normative framework. Thus, the focus of this study is not on generalizing empirical data but rather

on the logical consistency and conceptual coherence within Indonesian legal thought.

This research aims to conceptually and normatively analyze the relationship between natural justice and procedural justice, as well as examine its implications for the legitimacy of judicial institutions and the role of judges in the context of the rule of law. In addition, this research also aims to reflect on how the application of these two forms of justice by judges can reflect the fundamental values of the Pancasila state of law. By making Pancasila and the 1945 Constitution the philosophical and constitutional basis, this research aims to formulate a new understanding that procedural justice is an integral part of natural justice that must be upheld in every fair judicial process in Indonesia. To strengthen this conceptual and normative analysis, this research will also include examples of court decisions in Indonesia, specifically those that demonstrate how procedural justice is upheld or, conversely, violated. These decisions will serve as an empirical basis that can clarify how the principles of natural justice and procedural justice are applied in judicial practice, thereby strengthening the argumentation and relevance of the discussion.

RESULT AND DISCUSSION

¹⁰ Jonaedi Efendi and Johnny Ibrahim, *Metode Penelitian Hukum Normatif Dan Empiris* (Depok: Kencana, 2018), 131.

**Natural Justice and Procedural Justice:
Examining the Implications for Judicial
Legitimacy and the Role of Judges in a
Rule of Law State**

***Philosophical Foundations of Natural and
Procedural Justice***

From a theological perspective that reflects the teachings of natural justice, it is believed that alongside the positive laws made by humans, there are also laws that are naturally inherent in the order of nature. This natural law is considered to hold a higher moral standing compared to human-made laws, so positive law is only worthy of obedience when it aligns with the principles of natural justice.¹¹ This view emphasizes that the source of legal validity does not solely depend on the formal authority of the lawmakers but also on its correspondence with universal moral values recognized by human reason.

The classic question that has long been present in ancient Greek philosophy is, "Is justice derived from nature (natural) or merely the result of human agreement (conventional)?" Aristotle provided the answer that justice can be both natural and conventional. In *Nicomachean Ethics*, he

explains that some justice is natural and applies everywhere, like fire that burns in all places, while some is man-made and can vary according to place and time. Although Aristotle did not elaborate in detail on the content of natural justice, he emphasized that natural and conventional justice can coexist harmoniously. Even conventional justice essentially still reflects the human tendency to live socially and form shared rules.¹²

***Procedural Justice as a Manifestation of
Natural Justice***

In the common law system, the basis of natural justice has evolved into fundamental principles that guarantee a fair legal process.¹³ These principles are reflected in the prohibition against bias and the guarantee for everyone to express their opinions fairly before decision-makers. In this context, the legal principle *lex uno ore omnes alloquitur* affirms that the law must apply equally to all people, without bias, and be enforced rationally and transparently.¹⁴

Justice is not merely an empty slogan but rather reflects a universal principle that is the foundation of law itself: *jus suum cuique tribuere*—to provide to each person what is rightfully theirs. If we accept that human

¹¹ De Micco and Scendonì, "Three Different Currents of Thought to Conceive Justice: Legal, and Medical Ethics Reflections," 1.

¹² Kantilal Das, *The Paradigm of Justice: A Contemporary Debate between John Rawls and Amartya Sen*, *The Paradigm of Justice: A Contemporary Debate between John Rawls and Amartya Sen*, 2021, 21-22, <https://doi.org/10.4324/9781003206002>.

¹³ Aniruddh Atul Garg, "Fair Trial Concerning Natural Justice," *Jus Corpus LJ* 3 (2022): 139, https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/juscrp3§ion=494.

¹⁴ Garg, 136.

rights stem from inherent human dignity, then lawmakers have a moral and legal obligation to ensure their protection. Positive law can be considered just if it respects, protects, and guarantees the principles of natural justice, which are moral and universal.¹⁵

S. Pohrebniak states that the most fundamental legal principles—such as justice, equality, freedom, and human values—are inherently rooted in natural justice and are found in various legal systems around the world. These values not only reflect social norms within a specific society but also represent universal human values that transcend cultural and civilizational boundaries.¹⁶ Based on this thinking, scholars classify legal principles according to their scope of application, namely:¹⁷

- a. universal legal principle, which is a fundamental principle found in all legal systems;
- b. principles of civilization, which are the distinctive features of law in a particular civilization;
- c. the principle of legal family, which distinguishes the common law system from the continental system; and

d. national principles, which are principles that apply only within the legal system of a country and reflect local character.

Within the framework of procedural justice, Lombe Viola Epie asserts that the right to a fair trial is an integral part of natural justice. This right is guaranteed in the preamble to the 1996 South African Constitution, which states that the law must ensure every person's right to a fair hearing in court. This provision reflects the two main pillars of natural justice: the prohibition of bias and the guarantee of equal participation in legal proceedings. This principle was reaffirmed by Lord Atkin in the case of *R v Sussex Justices ex parte McCarthy* (1924), that "justice must not only be done but must also appear to be done."¹⁸

Various perspectives that have been put forward indicate that natural justice should not be narrowly interpreted as substantive (material) justice but should also encompass procedural justice as an essential part of a fair legal process. In some views, there is a tendency to sharply separate procedural justice from substantive justice, as if the two are in conflict with each other. Sudiyana and Suswoto, for example, argue that judges'

¹⁵ Wojciech Dziedziak, "Thoughts on the Notion of Justice," *Studia Iuridica Lublinensia* 30, no. 2 (2021): 1, <https://doi.org/10.17951/sil.2021.30.2.139-148>.

¹⁶ Yevhen Leheza et al., "The Essence of the Principles of Ukrainian Law in Modern Jurisprudence," *Revista Juridica Portucalense* 32 (2022): 349, [https://doi.org/10.34625/issn.2183-2705\(32\)2022.ic-15](https://doi.org/10.34625/issn.2183-2705(32)2022.ic-15).

¹⁷ Leheza et al, 349.

¹⁸ Lombe Viola Epie, "An Appraisal on the Protection of the Rights of Accused Persons Standing Trial before a Competent Court of Law under the Cameroonian Legal System," *Scholars International Journal of Law, Crime and Justice* 5, no. 10 (2022): 398, <https://doi.org/10.36348/sijlcj.2022.v05i10.001>.

decisions tend to prioritize procedural formal legal justice, emphasizing legal certainty over considerations of justice and social utility.¹⁹

Wildan Nafis and Noor Rahmad emphasize that judges ideally should not solely adhere to written procedural rules but should also dare to reinterpret norms if those rules do not reflect a sense of justice.²⁰ This perspective is in line with Budimansyah's view, who criticizes the law enforcement practices in Indonesia for being too normative and solely based on the text of the law, thereby neglecting the dimension of substantive justice in cases that are actually not worthy of formal processing due to their minimal impact.²¹

From all these perspectives, it appears that procedural justice is often reduced merely to compliance with formal rules, whereas in essence, it is an important instrument in ensuring a fair legal process—

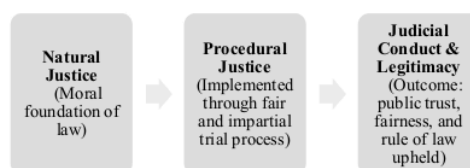
as a manifestation of the very values of natural justice.

The legal issue that arises from the description lies in how natural justice, which is moral and universal in nature, can be internalized into fair trial practices. Procedural justice cannot be understood merely as adherence to formal procedures but must reflect natural values that uphold equality, human dignity, and everyone's right to be heard fairly.

Judicial Legitimacy and the Role of Judges

To better understand the conceptual flow of underlying moral values towards institutional legitimacy, the relationship between natural justice, procedural justice, and judicial legitimacy can be visualized through the following diagram. This visual framework illustrates how universal moral norms, when internalized through fair procedures, contribute to trust and legitimacy towards judicial authority.

Table 1: The Normative Link between Natural Justice, Procedural Justice, and Judicial Legitimacy



Source: Elaborated by the author

¹⁹ Sudyana Sudyana and Suswoto Suswoto, "Kajian Kritis Terhadap Teori Positivisme Hukum Dalam Mencari Keadilan Substantif," *QISTIE* 11, no. 1 (2018): 129, <https://doi.org/10.31942/jqi.v1i1.2225>.

²⁰ Noor Rahmad and Wildan Hafis, "Hukum Progresif Dan Relevansinya Pada Penalaran Hukum Di Indonesia," *El-Ahli : Jurnal Hukum Keluarga Islam* 1, no. 2 (2021): 8, <https://doi.org/10.56874/el-ahli.v1i2.133>.

²¹ Budimansyah Budimansyah, "Rekonstruksi Dari Penegakan Undang-Undang Menuju Penegakan Hukum Demi Keadilan Yang Substantif," *JURNAL HUKUM MEDIA BHAKTI* 1, no. 2 (2020): 187, <https://doi.org/10.32501/jhmb.v1i2.14>.

This normative relationship affirms the central role of judges as the primary agents responsible for translating the values of natural justice into procedural practices that reflect fairness, impartiality, and respect for human dignity. Therefore, the next issue that needs to be discussed is how judges, through their behavior and decisions, uphold procedural justice and strengthen the legitimacy of the judiciary within the context of the rule of law.

Implications in the Indonesian Legal Context

The philosophy of Pancasila, in addition to the universal moral values found in natural justice, serves as normative guidance for the Indonesian legal system. As the state's basic ideology, Pancasila provides an ethical and cultural framework that shapes the perspective on procedural justice and how justice should be understood and applied within the Indonesian legal tradition. The following table illustrates how the five principles of Pancasila correspond to the main principles of procedural justice.

Table 2: The Alignment of Pancasila Values with Principles of Procedural Justice

Pancasila Principle	Corresponding Principle in Procedural Justice
Belief in the One and Only God	Moral legitimacy of justice beyond mere legal formalism
Just and Civilized Humanity	Respect for human dignity and equal participation in court
The Unity of Indonesia	Equal legal protection without discrimination based on identity
Democracy Guided by the Inner Wisdom of Deliberations among Representatives	Inclusive legal procedures and participatory decision-making
Social Justice for the Whole People of Indonesia	Neutrality and fairness in procedural mechanisms

Source: Elaborated by the author.

Embedding procedural justice in Pancasila ensures that judicial processes in Indonesia not only meet international standards but are also grounded in the nation's moral and ideological values. This perspective affirms the role of judges as guardians of justice who must be able to align procedural rules with the humanistic, unifying, democratic, and social justice values within Indonesia's constitutional identity.

Another issue that has emerged is the role of judges in building the legitimacy of the judiciary through the implementation of procedural justice that reflects the principles of natural justice. In the realm of legal philosophy, the goal of law in the form of justice is a manifestation of the will of natural law, and natural justice is a direct derivative of that view. From natural justice, procedural justice is born, which should serve as a bridge between positive law and universal moral

values. However, as seen in several studies discussed earlier, procedural justice is often misunderstood not as a form of justice, but rather as a form of injustice—especially when judges apply it rigidly without considering the context and substance. Procedural justice is often understood only as the end result, rather than as the fair process itself. Therefore, a more in-depth study of the elements of natural justice in procedural justice is needed, and how their consistent application by judges can build the legitimacy of the judiciary in the eyes of the public.

Procedural justice is a fundamental element in building the legitimacy of the judicial system. In Daniel K. Pryce and George Wilson's view, Pryce and Wilson believe that the public's perception of procedural justice administered by judges greatly influences the level of trust in the judicial institution. Judges are considered the primary law enforcers in adjudicating and deciding cases, so their behavior and attitude during trials come under public scrutiny. When judges demonstrate neutrality, uphold the rights of the parties, and treat everyone equally, public trust in the judiciary is higher.²²

This belief is also based on the symbolic experience of citizens being heard. According to Burke and Leben, being heard in front of a judge signifies that a person is respected as a subject of law. If a judge is reluctant to listen or provide space for dialogue, doubts arise regarding the fairness of the decision rendered. Public trust in the legal system largely rests on the belief that if necessary, they can bring their issues to court and be treated fairly.²³

The theory of procedural justice explains that a fair process is more determinant of public acceptance of the outcome than the substance of the decision itself. Based on the research of Thibaut and Walker, continued by Lind and Tyler, procedural justice consists of four main principles: participation (voice), which is the space for parties to express their opinions; neutrality, which is the consistent and impartial application of the law; respect, which is the appreciation of individual dignity and rights; and trust, which is the belief that legal authorities act fairly.²⁴ Recent research shows that perceptions of judges tend to be more positive compared to other law enforcement officers because judges are

²² Daniel K. Pryce and George Wilson, "Police Procedural Justice, Lawyer Procedural Justice, Judge Procedural Justice, and Satisfaction With the Criminal Justice System: Findings From a Neglected Region of the World," *Criminal Justice Policy Review* 31, no. 9 (2020): 8, <https://doi.org/10.1177/0887403419900230>.

²³ Kevin Burke and Steve Leben, "Procedural Fairness: A Key Ingredient in Public Satisfaction," *Court Review* 44 (2007): 6-8.

²⁴ Thomas C. O'Brien, Tom R. Tyler, and Tracey L. Meares, "Building Popular Legitimacy with Reconciliatory Gestures and Participation: A Community-Level Model of Authority," *Regulation and Governance* 14, no. 4 (2020): 821-829, <https://doi.org/10.1111/rego.12264>.

considered providing space for dialogue and being neutral in the pursuit of truth.²⁵ This is where the importance of judges as figures who maintain balance in court proceedings lies.

In the study of law and emotion, Bens and Zenker argue that emotions are an integral part of legal reasoning. Sentiment becomes the link between values, inner experiences, and legal norms that underlie a judge's considerations. Therefore, the law is not applied mechanically but is shaped through the interaction between formal procedures and social customs that live in the courtroom.²⁶

David Rottman refers to procedural justice as "the organizational framework needed for 21st-century judicial reform".²⁷ In this case, procedural justice is not merely due process of law in the legal-formal sense but rather is based on social psychology, specifically the perception of citizens regarding the treatment they receive from law enforcement officials. Transparent, open procedures that allow for participation will increase satisfaction and legal compliance,

even if the outcome is unfavorable for the concerned party.²⁸

In the perspective of procedural law, it is also important to understand the distinction between questions of law and questions of fact. The classical doctrine "*Ad quaestionem facti non respondent iudices, ad quaestionem juris non respondent juratores*" illustrates the distinction of authority between judges and juries. Although the Indonesian legal system does not recognize juries, this principle remains relevant to assert that judges are authorized to decide on the law, while facts are determined through evidence presented in court. Judge Richard Posner distinguishes: facts are empirical and can be tested for their truth, whereas law is normative and interpretative.²⁹ Therefore, the application of procedural justice becomes important so that the process of fact-finding runs fairly and without bias.

Legal language also plays a role in shaping the meaning of justice. Legal language is technical, formal, and interpretative. The meaning of a phrase or provision cannot always be understood literally; instead, it must be interpreted using

²⁵ Matthias van Hall et al., "Detainees' Perceptions of Procedural Justice: An Examination Throughout the Criminal Justice System," *International Journal of Offender Therapy and Comparative Criminology* 68, no. 13–14 (2024): 1, <https://doi.org/10.1177/0306624X221132229>.

²⁶ Larissa Vettors, "Making Sense of Noncitizens' Rights Claims in Asylum Appeal Hearings: Practices and Sentiments of Procedural Justice among German Administrative Judges," *Citizenship Studies* 26, no. 7 (2022): 939-940, <https://doi.org/10.1080/13621025.2022.2137940>.

²⁷ Steve Leben, "Getting It Right Isn't Enough: The Appellate Court's Role in Procedural Justice," *Kansas Law Review* 69 (2021): 21, <https://doi.org/10.17161/1808.31568>.

²⁸ Leben, 21-22.

²⁹ G. Alexander Nunn, "Law, Fact, and Procedural Justice," *Emory Law Journal* 70, no. 6 (2021): 1275-1291.

grammatical, systematic, historical, and teleological approaches.³⁰

This process demands the judge's meticulousness. If the trial has been unfair from the beginning, the interpretation of facts and norms is likely to lead to an incorrect verdict. The enforcement of the principle of procedural justice by judges is a tangible manifestation of the rule of law. Judicial independence must be guaranteed so that the court can effectively control the power of the political majority. There are three main indicators for the continuity of the rule of law principle: *first*, effective law enforcement; *second*, an impartial judicial system; and *third*, guaranteed public access to the courts. If judges are pressured, not only is judicial independence threatened, but the legitimacy of the rule of law as a whole is also weakened.³¹

According to the study, it can be understood that natural justice is the moral foundation inherent in every civilized legal system, and procedural justice becomes the concrete manifestation of that value in the courtroom. The mechanism of procedural justice ensures the protection of fundamental rights, equality, and impartiality during legal

proceedings. When trials are conducted fairly, this will build public trust and strengthen the legitimacy of the judiciary in a democratic rule of law that upholds human dignity.

Natural Justice and Procedural Justice: Reflections on Their Application by Judges in the Pancasila Rule of Law State

Bridging Natural and Procedural Justice in Judicial Practice

In Nicomachean Ethics Book V, Aristotle explains that natural justice (*δικαίον φύσει*) has basic principles that are universal and apply everywhere without depending on human acknowledgment. Lautner then interprets that natural justice in Aristotelian thought can be understood as part of natural law.³²

Aristotle also distinguished between natural justice and conventional justice, which are rules derived from societal agreements, such as regulations regarding which side of the road to drive on. Conventional justice has two stages, namely the stage before it is enacted (still general and not yet concrete) and the stage after it is enacted (becoming binding positive law). Although different, conventional justice often

³⁰ Ilias Chalkidis et al., "LexGLUE: A Benchmark Dataset for Legal Language Understanding in English," in *Proceedings of the Annual Meeting of the Association for Computational Linguistics*, vol. 1, 2022, 1, <https://doi.org/10.2139/ssrn.3936759>.

³¹ Katarzyna Gajda-Roszczyńska and Krystian Markiewicz, "Disciplinary Proceedings as an Instrument for Breaking the Rule of Law in Poland," *Hague Journal on the Rule of Law* 12, no. 3 (2020): 452-459, <https://doi.org/10.1007/s40803-020-00146-y>.

³² Péter Lautner, "Aristotle and Natural Justice," *Pázmány Law Review* 8, no. 1 (2023): 57, <https://doi.org/10.55019/plr.2021.1.57-65>.

derives from or aligns with the principles of natural justice.³³ Thus, natural justice underlies the formation of conventional justice.

The legal issue raised in this study revolves around the normative question of how the principle of natural justice, derived from universal values such as conscience, common sense, and basic morality, can be operationalized as a foundation in judicial practice, particularly in realizing procedural justice by judges in Indonesia. This issue becomes important because in judicial practice, there are still frequent misunderstandings of procedural justice as merely fulfilling formal procedural rules, without considering the deeper substance of justice.

In an applicative manner, this study also questions how the principles of natural justice and procedural justice can be consistently applied by judges within the framework of the Pancasila state of law, which upholds the values of humanity, social justice, and dignified participation in legal processes. Amid the demands for the professionalism and integrity of judges, procedural justice is viewed as a constitutional instrument to ensure the fulfillment of the substantive rights of the parties, so its application is not merely a matter of formal compliance but also a

reflection of the fundamental values of the nation as contained in Pancasila and the 1945 Constitution.

Conceptually, natural justice refers to principles of justice derived from conscience, common sense, and universal values inherent in human beings. These principles have a strong normative nature and serve as a minimum guarantee that must be present in every trial, especially to protect individual rights from arbitrary actions.³⁴ Historically, the term "natural justice" originates from the concept of *jus naturale* in Roman law and has equivalents such as "divine law," "universal law," "natural law," "fundamental justice," and "elementary rules of justice." This principle has been known since ancient Greek times, reflected in the principle of *audi alteram partem* (the right to be heard). In modern development, there are three fundamental principles of natural justice that now form the foundation of procedural justice.³⁵

1. *Nemo judex in causa sua*, which means no one should be a judge in their case. This principle guarantees the impartiality of decision-makers and prevents conflicts of interest.
2. *Audi alteram partem*, which means everyone must be given the opportunity to be heard. This includes the right to be

³³ Lautner, 57-60.

³⁴ Anju R V, "Carving Natural Justice into the Constitution of India," *Journal of Legal Studies & Research* 09, no. 03 (2023): 233-234, <https://doi.org/10.55662/jlsr.2023.9303>.

³⁵ R V, 234-236.

given proper notice of the charges or decisions to be made, as well as the opportunity to present arguments and defenses fairly.

3. Speaking orders or reasoned decisions, meaning every ruling must be accompanied by clear and accountable considerations.

Paul Craig asserts that natural justice has been a part of English administrative law since the 17th century and continues to evolve. Two of its main principles remain: the right to be heard and the prohibition of bias. In *James Bagg's Case* (1615), an official was dismissed without being given the opportunity to respond to the accusations against him. The court stated that the action violated the principle of justice because it disregarded the right to be heard.³⁶

In criminal law, the principles of natural justice serve as the main support for procedural justice. When a decision has the potential to affect someone's rights or interests, fair procedures must be met, namely adequate notice, the opportunity to participate in hearings or examinations, impartial decision-making, and the provision of sufficient reasoning so that the decision can be understood and assessed objectively.³⁷

Procedural justice and natural justice are very

much related and very simple to interpret for judges, namely by striving to create a fair process by listening to the parties in dispute and being neutral. This step ensures that the facts gathered are objective and accurate.

Based on the above explanation, it is clear that natural justice has a close relationship and serves as the foundation of procedural justice. Both are rooted in universal values of justice that demand the legal process to be conducted fairly, transparently, and with respect for individual rights. For a judge, the meaning of this principle is actually simple yet fundamental: creating a fair trial by listening equally to all parties involved in the case (*audi alteram partem*) and maintaining neutrality and freedom from conflicts of interest (*nemo judex in causa sua*). Judges demonstrate their professionalism by consistently applying this principle, ensuring that the facts presented in the trial are objective and align with true justice.

This conceptual relationship between natural and procedural justice can be observed in judicial practice, particularly in how Indonesian judges interpret and apply both principles in their reasoning.

³⁶ Paul P. Craig, "Natural Justice in English Administrative Law: Continuity and Change from the 17th Century," *SSRN Electronic Journal*, 2022, 2-6, <https://doi.org/10.2139/ssrn.4051341>.

³⁷ Ronald Osei Mensah, "The Relevance of Natural Justice in the Decision-Making Processes of Public Bodies and Officials in Ghana," *International Journal of Law and Society* 5, no. 4 (2022): 375-376, <https://doi.org/10.11648/j.ijls.20220504.14>.

Judicial Reflections on the Practice of Natural and Procedural Justice in the Pancasila Legal System

In the Kupang High Court Decision Number 51/PID/2022/PT KPG, the Defendant filed a memorandum of appeal as an objection to the decision of the Panel of Judges of the Kupang District Court. Within that framework, the Defendant expressed appreciation for the efforts of the Panel of Judges, who had fully documented the trial results and carried out their duties within their authority. However, these efforts seem to only reflect the fulfillment of the "procedural justice" aspect without being balanced by the realization of "substantive justice."

Similar criticism was also expressed in the Judicial Commission's Research Report, which highlighted the judiciary's tendency to treat procedural justice as if it were not part of justice itself, as if justice were only measured by the material outcome. Research on 105 criminal judgments showed that the completeness of the elements of proof and criminal liability, which were broken down into 19 parameters and yielded 1995 responses, generally reflected low quality. Most answers were negative (58.75%), with the note that jurisprudence, standard legal doctrine, and unwritten law were not part of the judge's legal considerations.³⁸

In a different view, the Kefamenanu District Court Decision Number 36/Pid.B/2021/PN Kfm provides a more comprehensive perspective on the concept of justice. In his consideration, justice is defined as the attitude of putting something in its place, assigning something according to ability, and giving rights proportionally. This decision affirms that justice has two main dimensions: substantive justice, reflected in the quality of the decision based on the judge's rationality, objectivity, and conscience; and procedural justice, which relates to the protection of the parties' legal rights at every stage of the judicial process. Therefore, these two dimensions of justice should work in harmony, not be opposed or mutually exclusive.

For a long time, many have mistakenly understood procedural justice as merely formalistic and insubstantial. In reality, procedural justice actually becomes a prerequisite for the emergence of a fair decision. It is impossible for a decision to be called fair if the process ignores the basic rights of the parties, such as the defendant's right to present mitigating witnesses or, in civil cases, the defendant's right to submit an answer to the lawsuit directed at him. When a process does not provide space for active and equal participation from all parties, the outcome will lose moral and legal legitimacy.

³⁸ Paulus Hadi Suprpto, Surastini Fitriasih, and Shidarta, "Menemukan Substansi Dalam Keadilan Prosedural" (Jakarta, 2010), 46-49.

Therefore, procedural justice is an essential foundation for the establishment of justice in its true sense.

Indonesia is constitutionally affirmed as a rule-of-law state as stated in Article 1, paragraph (3), of the 1945 Constitution.³⁹ In the 1945 Constitution, Pancasila is explicitly integrated as the philosophical foundation of the state, as reflected in the Fourth Paragraph of the preamble.⁴⁰ Therefore, Pancasila not only functions as a meta-norm and the philosophy of the Indonesian nation,⁴¹ but also serves as the main foundation for the formation of written norms and functions as a legal umbrella.⁴²

Pancasila consists of five principles, namely: "Belief in the One and Only God, Just and Civilized Humanity, the Unity of Indonesia, Democracy Guided by the Inner Wisdom in the Unanimity Arising out of Deliberations among Representatives, and Social Justice for All Indonesian People".⁴³ These five principles contain important dimensions closely related to the principle of procedural justice, such as the principle of

Humanity which emphasizes fair treatment towards fellow humans; the principle of Social Justice which upholds both substantive and procedural justice; and the principle of Democracy which points out the value of a deliberative process that reflects the principle of listening fairly to all parties in a trial. As a representation of fundamental values and the highest legal umbrella in the State of Indonesia, Pancasila must always serve as the main reference that guides every attitude and action of judges in upholding the principle of natural justice through procedural justice. This role is further strengthened by the provisions of Article 28D, paragraph 1 of the 1945 Constitution, which explicitly state that "everyone has the right to recognition, guarantee, protection, and fair legal certainty, as well as equal treatment before the law".⁴⁴

This constitutional norm emphasizes that a fair trial must be based on the values of Pancasila, including respect for human dignity, equality of rights, and legal procedures that guarantee protection for every citizen.

³⁹ Silm Oktapani et al., "The Obligation of Constitutional Court to Give a Decision on Opinion of Council Representatives in Process of Termination Indonesian President," *Technium Social Sciences Journal* 145 (2023): 163, <https://doi.org/10.47577/tssj.v45i1.9196>.

⁴⁰ Ruben Denny Djari, "Urgensi Rancangan Undang-Undang Tentang Mediasi: Terwujudnya Keadilan Dan Kepastian Hukum Bagi Para Pihak," *Jurnal Education and Development* 8, no. 1 (2020): 141.

⁴¹ Sri Windari and Muhammad Ilham Aziz, "Filsafat Dalam Sistem Nilai Pancasila," *Aksiologi : Jurnal Pendidikan Dan Ilmu Sosial* 2, no. 1 (2021): 10, <https://doi.org/10.47134/aksiologi.v2i1.64>.

⁴² Badrun et al., "Pancasila, Islam, and Harmonising Socio-Cultural Conflict in Indonesia," *Al-Jami'ah* 61, no. 1 (2023): 137, <https://doi.org/10.14421/AJIS.2023.611.137-156>.

⁴³ Defitasari Novia Anggraeni, Muchtar Muchtar, and Putri Mahanani, "Representasi Nilai-Nilai Pancasila Dalam Film Animasi 'Battle of Surabaya,'" *Jurnal Pembelajaran, Bimbingan, Dan Pengelolaan Pendidikan* 3, no. 1 (2023): 46, <https://doi.org/10.17977/um065v3i12023p39-49>.

⁴⁴ Erwin Susilo et al., "Justice Delayed, Justice Denied: A Critical Examination of Repeated Suspect Status in Indonesia," *Hasanuddin Law Review* 3, no. 3 (2024): 342, <https://doi.org/10.20956/halrev.v10i3.6088>.

Jürgen Habermas's thinking in deliberative democracy theory emphasizes the importance of rational deliberation in decision-making.⁴⁵ Although these principles originated from a political context, the openness and active participation that he proposed are relevant in the judicial world. Ideally, judges should not be passive and mechanistic but rather become facilitators of rational and open dialogue to find truth and justice through a fair trial. In line with that, Amartya Sen rejects the ideal and static approach to justice. In the capability approach, Amartya Sen emphasizes that justice involves efforts to reduce real injustices by promoting freedom of process and life choices.⁴⁶ From this perspective, it can be understood that judges need to ensure that the legal process truly provides equal and meaningful space for seekers of justice, especially for vulnerable groups.

H.L.A. Hart also offers an important perspective through his critique of Dworkin. He argues that judges, in practice, legitimately use considerations for collective justice, such as child protection or public order.⁴⁷ Hart's approach aligns with natural

justice because it opens up space for universal justice values in trials, and of course, this viewpoint does not contradict procedural justice, as procedural justice itself is a reduction of natural justice. Frank I. Michelman, with "justification-by-constitution," unites procedural and substantive justice in one idea: fair procedures must reflect collective moral values such as equality and freedom.⁴⁸ Procedural justice is a tool to ensure the fulfillment of other constitutional rights. In the context of Indonesia, procedural justice is a constitutional right as stipulated in Article 28D paragraph (1) of the 1945 Constitution, so for Indonesia, upholding substantive rights and procedural rights are two things that must be fulfilled simultaneously.

From the explanation above, it can be understood that natural justice, as illustrated by Aristotle, is a principle of universal justice that arises from human conscience and common sense and serves as the foundation for procedural justice in modern law. Principles such as *nemo iudex in causa sua*, *audi alteram partem*, and the obligation to provide legal reasoning in decisions ensure trials that are fair, open, and free from bias. In

⁴⁵ Ronald Tinnevelt, "Political Parties and 'the Long Road of Participatory Deliberative Democracy,'" *Krisis*, 2020, 108, <https://doi.org/10.21827/KRISIS.40.1.37060>.

⁴⁶ Oscar Garza-Vázquez, "Why Expanding Capabilities Does Not Necessarily Imply Reducing Injustice: An Assessment of Amartya Sen's Idea of Justice in the Context of Mexico's Oportunidades/Prospera," *Review of Social Economy* 81, no. 3 (2023): 443-447, <https://doi.org/10.1080/00346764.2021.1881150>.

⁴⁷ H L A Hart, "Policies , Principles , and Adjudication," *The American Journal of Jurisprudence* 69, no. 2 (2024): 129-130, <https://doi.org/https://doi.org/10.1093/ajj/auae014>.

⁴⁸ Frank I Michelman, "Response," *Harvard Public Law Working Paper* 24-24, 2024, 16, <https://doi.org/https://dx.doi.org/10.2139/ssrn.4949125>.

the Pancasila state of law, procedural justice is not merely a formality but a reflection of Pancasila values such as social justice, humanity, and deliberation. Article 28D, paragraph (1) of the 1945 Constitution emphasizes that everyone is entitled to fair and equal legal treatment, making procedural justice a constitutional right. For judges, the application of this principle demands a professional attitude to listen to both parties equally and remain neutral to find the truth and justice. Thus, procedural justice is an important means to guarantee substantive rights and is an integral part of upholding justice in the Indonesian rule of law based on Pancasila.

CONCLUSION

Based on the aforementioned explanation, it can be concluded that procedural justice is not merely a series of formal rules, but rather a concrete embodiment of the principle of natural justice that guarantees fair, equal, and unbiased trials. Principles such as *audi alteram partem*, *nemo iudex in causa sua*, and the obligation to provide reasoning for decisions are the main instruments that judges must uphold to maintain the legitimacy of the judiciary and ensure respect for human rights. In a Pancasila state of law, procedural justice cannot be separated from constitutional values, as it serves as a pathway to achieving substantive justice that respects human dignity and the equality of citizens.

Therefore, it is recommended that judges place the principle of natural justice as a moral and legal foundation in every trial.

To make this approach a regular practice, future changes could involve required training for judges on ethical thinking and understanding morals, adding lessons on procedural justice to the judicial education program, and creating a system to evaluate judicial decisions based not just on legal rules but also on how they match up with human values and justice. These steps are important to bridge the gap between formal legality and perceived justice, ensuring that judicial behavior consistently reflects a just legal order.

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