

## **Examining Pancasila as the Basis of the State According to the Perspective of the Islamic Law**

**Wiriadi Sutrisno<sup>1\*</sup>, Iramdan<sup>2</sup>, Asyari Muchtar<sup>3</sup>**

<sup>1,2</sup> Prodi Pendidikan Ekonomi Unindra PGRI, Indonesia

<sup>3</sup> Universitas Indonesia Mandiri, Indonesia

Email: [wiriadisutrisno@gmail.com](mailto:wiriadisutrisno@gmail.com)<sup>1\*</sup>

### **ABSTRACT**

This research aims to examine Pancasila as the basis of the State according to the perspective of Islamic law in the Unitary Republic of Indonesia (NKRI) by investigating the Five Principles based on the perspective of Islamic law (Sharia). The method used in this study is the library research method. Researchers used books from the library as reference material by reviewing literature that followed the theme and exploring empirical studies from previous research related to understanding Pancasila and Islam properly and correctly. The results of this research explain that the relationship between Pancasila and Islam is a mutually necessary relationship where Islam provides an increase in the nation's morale, and the state with its Pancasila guarantees that religious life can take place safely and peacefully. Thus, Pancasila and Islam have a mutually purposeful relationship in organizing and maintaining the Republic of Indonesia to become a country that collects behavioral policies of its population.

**Key Words:** *Pancasila, Islamic Religion, Unitary State of the Republic of Indonesia.*

### **INTRODUCTION**

Apart from being the Foundation of the State, Pancasila is the unifier of the diverse Indonesian nation, and the identity of the Indonesian nation, it is also the philosophy and ideology of the nation. The strong influence of Pancasila on the Indonesian nation and state is because the Indonesian nation has various ethnicities, tribes, races, religions, and cultures. Growing differences are united so the nation and citizens can live safely and peacefully. Pancasila has become the agreement of the Indonesian nation with all considerations, such as geographical location, demographic conditions, and the cultural richness of the archipelago. This is referred to as something final or as The Great Ought because Pancasila is believed to be able to unite the nation and the values of tolerance between religious communities (Muhammad Resky et al., 2022)

Pancasila as a national ideology is still relevant to national life and has been tested repeatedly since its birth, both sociologically, juridically, and culturally. However, Pancasila is still able to survive because it has great strength to survive and become the basis and philosophy for national life, society, and state. Aditya & Noor (2017) stated that Pancasila is evidence of the national spirit of the nation's founders. Then it was emphasized again that the values of Pancasila are the ideals of life of the Indonesian people or a manifestation of goals in realization such as explained (Regiani & Dewi, 2021)

Our founding fathers long ago formulated the most appropriate basis for the state. Pancasila values must always be used as the main basis for thinking and acting (Natalia et al., 2021). In his various speeches, Ir. Soekarno always stated that the five basic principles of nation and state, called Pancasila, were the culmination of the thoughts of the nation's children. This idea is an embodiment of the culture of the Indonesian nation itself which has existed since the Hindu, Buddhist, and local religions, the values of divinity, humanity, national unity, democracy based on deliberation and consensus, and also social justice. These values were extracted from the treasures of Indonesian life and were finally decided as the basis of the State known as Pancasila with the belief in God.

Based on the description above, it is challenging to find harmony in the relationship between religion and the state in the context of Islamic political thought in Indonesia, often experiencing long debates that result in tension between religion and state relations. The different views expressed by the figures significantly impacted the disharmony of faith and the state itself. The difference in opinions regarding the basis of the state is not the overall attitude displayed by figures who formulated the nation. But the essential thing in the debate is whether this country should be "Islamic" or "Nationalist". In response to this, one of the founding fathers who succeeded in guarding and responding to this difference was *Hadratussyaikh* KH. Hasyim Asy'ari, a prominent cleric who has played a significant role in initiating the concept of nation and state. *Hadratussyaikh* is a religious figure who is considered successful in integrating Islam and Indonesian nationality (Naf'an Rizal S. Toriq, 2006). Thus, Pancasila is the basis of the state, identity, philosophy, ideology, and a tool to unify the diverse Indonesian nation. The strong influence of Pancasila on the Indonesian nation and state, is because the Indonesian nation has various ethnicities, tribes, races, religions, and cultures that can be united to live safely, peacefully, and peacefully.

Authentically the spirit of Pancasila itself is the belief in the Almighty God. Religion (God's rules) has been present on earth as a package with the process of human creation itself, therefore when someone questions the existence of religion (with its civilization products) and/or separates social, national, and state life from religion, it is the same as separating fish from the

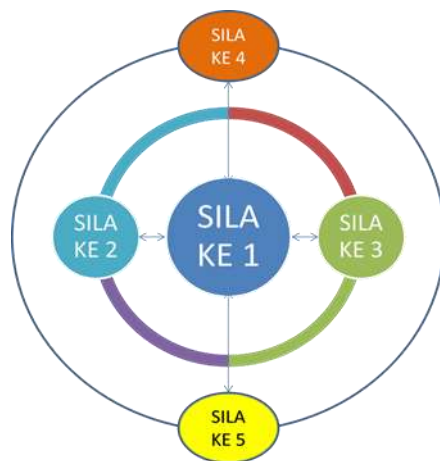
water. or separate humans (living creatures) from oxygen. Then the position of Pancasila as a source of legal order in the Republic of Indonesia's constitutional law.

Notonagoro (1957) as described by (Hamidi, 2006) explains that in legal order there can be a hierarchical division of legal regulations, and in that arrangement, the constitution, which is the written basic law of the state, is not a regulation. the highest law, as also stated in the official explanation of the 1945 Constitution, because it is explained that it still has basic basics. The basic principles of this basic law, which are essentially separate from the basic law, are called fundamental state rules (*Staatsfundamentalnorm*), which contain three absolute requirements, which are determined by the founders of the state, containing the first provisions which become the basis country and secondly, it is not only about state organization. Notonagoro further said, to fulfill the characterization of the Preamble to the 1945 Constitution which has the basic essence of the fundamental rules of the Indonesian state. Thus, the Preamble to the 1945 Constitution has two types of positions regarding Indonesian legal order, namely: First, it becomes the basis, Second, it includes itself as the highest legal provision, following its original position as a basis for other basic laws, both written (UUD) as well as conventions, and other lower legal regulations.

Furthermore, it has been stated that there were legal regulations that fulfill four conditions, namely the existence of a unified subject that implements legal regulations, the existence of spiritual principles that cover the entirety of the legal regulations, the existence of a unified time that contains the regulations the law applies, and there is a regional unity where the legal regulations apply. In this legal order there is a hierarchical division of legal regulations regarding the relations between nations in the world. The preamble has been formulated concisely and solemnly in (4) paragraph, every paragraph and the words contain very deep meaning and meaning, have universal and enduring values. Universally, because it contains values that are upheld by civilized nations throughout the earth. Lestari, because it is able to accommodate the dynamics of society, but becomes the foundation of the struggle of the nation and state as long as the Indonesian people remain loyal to the State Proclamation of 17 August 1945.

This means that Pancasila always inspires law enforcement. The formation of national law is a consequence of realizing the order of independence. Therefore, there would be need for the Indonesian nation to construct its national laws based on the basic values contained in Pancasila. These basic values are transformed into legal ideals and legal principles which are then formulated in national legal concepts.

Prof. Dr. Buya Syakur, MA in (Khotimah, 2020) the study expressed his study that the First Principles were the way for the founders of the Indonesian nation to unite the various religions in the archipelago, interpreted as an unwritten condition for living in Indonesia "for anyone who wants to live in The Indonesian state recognizes that it has one God," recognizes that God is One. This can be interpreted as saying that a human's relationship with God is a horizontal, private relationship. Each has the freedom to believe in his or her own beliefs and not harm one another. If this is used as a basis for the nation and state in this archipelago which has various ethnicities and religions, of course, all stakeholders will not experience obstacles in creating peace in society. The relationship between the First Precepts and the other Four Precepts is interrelated in portraying the behavior and attitudes of the nation as a nation that has Pancasila as the way of life.



**Figure 1**, Relationship between the First Precept and the other Four Precepts

This relationship image explains that if the first principle is in the human heart, and the essence of God is high, then the entire human body will move with noble behavior and values by following the direction or command of the whole conscience (morality). The relationship between the first precepts and the next precepts cannot be separated from one another, they constitute a unified whole, like the human body which is interconnected between one body member and another. Pancasila as the personality of the Indonesian nation is a rote that is taught in schools. However, judging from reality, there are irregularities in the life of the Indonesian people in the current era. So, it is exceedingly difficult to conclude that the personality of the Indonesian nation is Pancasila. There are many reasons, of course, that can be put forward, including the life of tolerance among the society is currently somewhat disturbed, the sense of unity and integrity has begun to waver, the slogan of mutual cooperation (*gotong royong*) is no longer a strength, *Bhinneka Tunggal Ika* is only a rote that has never been

understood, and of course, many other reasons could be put forward, (Basri et al., 2022).

## RESEARCH METHODS

This research is qualitative research with a descriptive sociological approach using legal, historical, and conceptual approaches. Research methods are basically ways to obtain data with specific purposes and uses. Even though legal scholars' recognition of the importance of interdisciplinary and multidisciplinary approaches continues to grow, debates over legal research methods in Indonesia will obviously still emerge. This debate should be addressed by proportionally placing the normative legal research method (which is the current mainstream method). We must assess the relevance of normative legal research depending on the scope of the legal issues to be discussed. Given the development and recognition of non-legal approaches in legal science, normative legal research methods cannot be considered the only valid method and must be understood as one of several existing legal research methods (Sulthon, 2020). The approach and type of research referred to in this study analyzing problems is carried out by combining written law with data found in the field, namely about Examining Pancasila as the Basis of the State according to the Perspective of the Islamic Law

Qualitative research is research that produces descriptive data in the form of written or spoken words from people or observed behavior. Data analysis was carried out inductively, and all data obtained was interpreted based on existing theories. The analysis uses an interactive model of analysis. This model includes four stages, namely the data collection stage, reduction stage, presentation stage, and data verification or conclusion drawing stage as Matthew B. Miles & A. Michael Huberman in (Prabandani, 2017). Furthermore, data collection techniques used in literature research (Dewantara & Nurgiansah, 2021).

Interviews were conducted with lecturers, student activists, and students at UNINDRA. Where ever the author uses books from the library as reference material where the author looks for literature that is appropriate to the material and also comes from empirical studies from existing research related to Pancasila as the Foundation of the State in the Perspective of Islamic Law. Meanwhile, observations were carried out by observing the behaviour of extra and intra-campus organs related to their responses and attitudes towards The Regulation of Minister of Research and Higher Education (Permenristekdikti) No. 55 of 2018.

The validity of data is the truth of information that has been collected to eliminate errors and deficiencies in recording reports. Errors and deficiencies in information can be improved or revised through rearrangement of information or by addition (inclusion). The data validation process uses

triangulation techniques. Triangulation is a technique of checking the validity of data that utilizes something else, beyond that data for checking purposes or as a comparison to data. Triangulation techniques can be done using different techniques, namely interviews, observations, and documents. In this study, the technique used is triangulation, a technique carried out by checking data from the same source with different techniques. Data obtained from interviews will be checked with observation data and documentation (Sri et al., 2024).

## RESULTS AND DISCUSSION

### *Pancasila in the Islamic Law Perspective*

One of the largest Islamic groups in Indonesia ended the polemic debate between Muslim nationalists and secular nationalists by stating that the principle of God is a principle that reflects Islamic monotheism, a feeling, an inner state so that the principles of God Almighty are considered to have imagined what desired by Islamic Tauhid (Pratama & Irayanti, 2022) Everything is touched upon in Islam, even *at al* level that is considered simple it is still touched by Islamic values. This is proof that Islam, with the power of its *fitah*, is capable of becoming a religion that gives grace to all of nature. In the political realm, Islam has been a great force in the history of human civilization and has proven capable of becoming a strong ideology in a government system. Quoting Imam Al-Ghazali, as described in (Mukti et al., 2021) expressing the origins of belief, said that "belief in Allah was born in every human being because of their nature (the characteristics that Allah implanted in humans when creating them). No one can avoid his natural urge to seek knowledge about Allah by the verses in the Qur'an. There are many markers that can act as a basis for belief in Allah that are easy to understand to make him believe in a single Creator, who rules and control the universe.

Islam is a religion, while Pancasila is a philosophy of life in the nation and state. Therefore, in a Pancasila state, Islam can live and develop and is even very necessary. Likewise, the concept of Pancasila will become clearer when people practice their respective religions. That is why even though this country is not based on religion, it wants its people to practice their respective religions. The quality of nationality will be measured, among other things, by how high the quality of its religion is. As a nation that declares Pancasila as the nation's ideology, we should always try to practice our religion as well as possible. Based on this view, Pancasila and Islam do not need to be confronted, let alone positioned as two contrasting or antagonistic things. In fact, what should be built is that Pancasila requires Islam, and likewise other religions such as Hinduism, Buddhism, Christian, Catholic, and others. Indonesian nationalism or nationalism is in no way contrary to Sharia values, even in the noble sense that nationalism itself is prescribed by Allah SWT. This country was built on the basis of equality of

nationality, not on equality of religion or anything else, so that national principles became the first principle in the speech at the birth of Pancasila on June 1 1945. Likewise with other principles in Pancasila, although the arrangement later changed (M. Saifullah Rohman, 2011) such mentioned in (Nawir, Muhammd & Islamy, 2022). It was further explained that in principle, Islamic law can be enjoyed by all humans, without exception. This is done by democratic means (*al-hurriyah* and *al-syura*) and the integration of Islamic law into positive law as long as it does not oppose the principles of Islam.

This is what happens in Indonesia, Islamic law does not only belong to Muslims but to all citizens. *Rosulullah* explained that his compromise was intended to achieve greater things. Namely, regarding the benefit of society, both Islamic and non-Islamic. In this context, the benefit is so that Muslim and non-Muslim communities do not fall into protracted arguments and conflicts.

When the state provides opportunities for all religions to live and develop, it is actually not in conflict with Islamic beliefs. The religion that was passed down to the Arabian peninsula brought by the Prophet Muhammad states that there is no compulsion in religion. This means that someone being a Jew, Christian, Buddhist, Hindu or other person is welcomed by Islam. In the Qur'an it is stated clearly with the sentence that: '*la ikraha fiddien*' and also '*lakum diinukum waliyadien*'. However, Islam is indeed a missionary religion. Its followers are commanded to call or invite to Islam. However, this invitation is not permitted. carried out by force. Appeals, preaching, or invitations, should be done in the best way, with wisdom, or gently and wisely. So it must be conveyed in the best, correct, and wisest way.

In preaching or calling on other people, apart from conveying it in a gentle, wise, or wise manner, it is also recommended that it be carried out by example or *uswah ahsanah*. Islam is seen as a path to goodness, glory, safety, and happiness. Inviting people to such a path should be done with an exemplary approach or through example. A person who calls for goodness, while he himself does not carry it out, will also receive a harsh rebuke. In particular, (Marhaeni, 2017) raised several verses from the Qur'an which illustrate how basically the Pancasila principles are very in accordance with the Islamic religion, including the following:

- (1) Belief in the Almighty Godhead; Allah SWT says in the Al-Qur'an Surah Al-Ikhlâs (112:1) "Say (Muhammad), He is the Almighty Allah".
- (2) Just and civilized humanity; Allah SWT says in QS. An-Nisa (4:135) "O you who believe! Be you upholders of justice. Be a witness for Allah, even if it is against yourself or against your parents or your relatives. If he (the defendant) is rich or poor, then Allah knows his benefit (goodness) better. So do not follow your desires because you want to deviate from the truth. And

if you distort (the words) or are reluctant to be a witness, then know that Allah is Almighty. know everything you do.

- (3) Indonesian Unity; Allah SWT says in QS. Al-Hujarat (49:13) "O people, indeed we have created you from a man and a woman, then we made you into nations and tribes so that you may know each other, indeed the noblest among you in the sight of Allah is the most devout person. Indeed, Allah is all-knowing, all-observant.
- (4) Democracy led by wisdom in representative deliberations; Allah SWT says in QS. As-Shura, (42:38) "and (for) the people who accept (obey) God's call and perform prayer, while their affairs are (decided) by deliberation between them, and they spend some of the good fortune that we give them. "who accept (obey) God's call and perform the prayer, while their affairs are (decided) by deliberation between them, and they spend some of the good fortunes that we give them."
- (5) Social justice for all Indonesian people; Allah SWT says in QS. An-Nahl, (16:90) "Indeed, Allah commands (you) to act justly and do good, to assist relatives and He forbids (committing) vile deeds, evil and enmity. He teaches you so that you can take lessons." (Al-nur'anulkarim, Colored Word Translation, and Tajwid, 2014.) (6) Power, namely executive, legislative, and judicial. Touching on the position of Islam in constitutions in Muslim countries, the Professor of Islamic Law in the field of Siyasa Fiqh at the Faculty of Sharia and Law at UIN Jakarta mentioned several examples of cases, for example, Saudi Arabia, Iran, Pakistan, and Afghanistan. In these countries, Islam is referred to as the state religion, the head of state must be Muslim, and sharia is the law of the land. In the constitutions in Egypt and Suthria, Islam is the state religion, the head of state must be Muslim, and sharia is the main source of legislation. Other countries, such as Tunisia and Algeria, also state that Islam is the state religion and the head of state must be Muslim. The same thing also happens in the constitutions of Jordan and Malaysia, while in Muslim countries such as Turkey and Indonesia, Islam is not mentioned in the constitution.

#### *Islamic Law Perspective on State Policy in several Muslim countries*

Until now, Muslim countries are still debating the relationship between religion and the state. This debate occurs regarding the state's adoption of Islamic teachings, especially Islamic law (shari'ah), including in Indonesia and Tunisia, which are now the most democratic Muslim countries. This even happens in Türkiye, which is constitutionally a secular country as expressed in (Sulthon, 2020). said although Islam justifies the existence of a constitution as the basic law in state life, in reality almost all Muslim countries ratified their constitutions after



they achieved independence at the end of World War II, and not all of them currently enforce constitutions. Saudi Arabia, for example, did not have a constitution known in modern terms until the early 1990s. In 1993 there was legal reform in this country with the implementation of the Basic System of Regulations (Nizâm Asasi), the establishment of a Consultative Council (Majlis Shura), and the Regional Administration System (Nizam al-Muqata`at al-Idariyyah). In his presentation, Masykuri also mentioned that all constitutions in Muslim countries define state bodies and their authority and responsibilities. In this case, most of them specify three institutions. However, the Indonesian constitution stipulates that the state is based on the belief in One Almighty God, while Turkey is based on secularism. According to Masykuri, the above classification shows that the majority of Muslim countries do not fully implement *Sharia*. Most of them developed their national laws like the Western system. Only the first group can be called "Islamic countries", such as Saudi Arabia and Iran, while the others are called "Muslim countries". Most Muslim countries also enforce Islamic family law and many of them enforce other private laws, such as Islamic business law. Even in some countries, *Sharia* is implemented in certain provinces, such as in Aceh (Indonesia) and Kelantan (Malaysia).

*Pancasila as the basis of the state is an agreement from the founding fathers of the state.*

The agreement is based on at least 3 (three) rational realities, namely:

- (1). Independence for the nation and people of Indonesia is something that must be prioritized ((the principle of *al-Aulawiyat fiqh* or the principle of the 3 levels of *Maslahah*).
- (2). Awareness that the country or territory of Indonesia is inhabited by people or nations who adhere to various religions. Likewise, Indonesia's independence was fought for together by the Indonesian people who embraced various religions.
- (3). Muslim leaders really understand that the 5 (five) principles of Pancasila do not conflict with Islamic teachings or *sharia*. The existence of Pancasila and Islam in the territory of the Republic of Indonesia constitutes a single unity and complements each other in carrying out good behaviour in the nation and state. So, it is clear that there is no conflict between Islam and Pancasila.

*Sila*, by means of the description by Nur Syam and Yusuf Maryam Yusuf (2020) as follows: *The First Principle*, "Belief in One Almighty God" certainly does not conflict with the principle of *Tawhid* taught in Islam. Likewise, *the Second Principle* is "Just and civilized humanity". Here too there is not the slightest contrast with Islam. Doesn't Islam teach how much Islam values the human dimension? Lengthy before the UN Declaration on Human Rights, Islam taught the principles of coexistence with others, teaching mutual affection, mutual

respect, helping each other, and so on. Then the *Third Principle* "Indonesian Unity", of course also does not conflict with Islam, especially in relation to the nation state. Saudi Arabia has never claimed that the King of Saudi Arabia is the world leader in the form of his kingdom. Respect for the territorial rights of each country, without assuming that the Saudi Arabian state stretches across the world, and the world is under its control. Only Israel currently still claims the Palestinian territory as part of its territory due to historical factors. If we use only historical-geographical factors as a measure to determine the territory of a nation state, then Indonesia can claim Indochina as its territory, because in the past it was the territory of the *Madjapahit* state. Through this *Third Principle*, what is taught is that people love their country and nation. *The Fourth Principle*, "The people are led by the wisdom of deliberation/representation", is part of the way our leaders in the past have interpreted "deliberation" as the core of how we construct power. So, there is a pattern like in Indonesia with democracy, and there are those with the caliphate-kingdom system as the pattern used and so on. Democratic systems also vary according to the consensus built in the country. There is direct democracy and indirect democracy. So this is an area of state interpretation based on the nation's consensus through its leaders. Then, *the Fifth Principle* is "Social justice for all Indonesian people".

Juridically, belief in the Almighty God is stated in the first principle and is contained in the Preamble to the 1945 Constitution. In legal science, the position of the Preamble to the 1945 Constitution, which contains the value of belief in the One and Only God, is a fundamental norm in the Indonesian state. In this sense, belief in the Almighty God is a constitutive and regulative principle for Indonesian legal order. In this sense, Belief in the Almighty God is a constitutive and regulative principle for Indonesian legal order, so it is a starting point for the derivation of Indonesian legal order and the positive law that is subordinate to it.

Pancasila, which contains religious values, moral law values, natural law values, and God's law values, is a source of material law for Indonesian positive law. In this way, Pancasila determines the content and form of legislative regulations in Indonesia which are arranged hierarchically. In this hierarchical arrangement, Pancasila guarantees harmony or the absence of contradictions between various legal regulations vertically and horizontally. This has consequences if there is a discrepancy or conflict between one legal norm and another that is hierarchically higher, especially if there is a discrepancy, then the lower legal norm must be null and void.

Responses to the statement about the First Principles from previous research, Toba Sastrawan Manik, et al (2021). In the first principle of Pancasila above, it was discussed:

- (1) Regarding the statement "The Divine Principles of Pancasila are in accordance with Islamic teachings", 21.3% of respondents agreed and 76.2% strongly agreed.
- (2) For the statement "I accept Pancasila as the basis of the state"; Respondents agreed with 28.7% and strongly agreed with 68.9%.

The results of this research can be interpreted as Pancasila as an ideology and Islam as a religion do not conflict in substance. Even if there is, this is due to differences in views at a practical level, not in principle. The majority of respondents chose to agree and strongly agree with each of the Pancasila principles as seen in Table 1. Although not all respondents answered between agree and strongly agree, the majority of respondents chose to agree and strongly agree with each of the Pancasila principles.

**Table 1.** Postgraduate Students' Views of Pancasila (Toba Sastrawan Manik, 2021)

Variables		Answer/Aging Rate (%)			
		1	2	3	4
Deity ( <i>Ketuhanan</i> )	1	0	2,5	21,3	76,2
	2	0,8	1,6	28,7	68,9
	3	0	0,8	26,2	73,0
Humanity ( <i>Kemanusiaan</i> )	4	0	1,6	23,8	74,6
	5	0	1,6	30,3	68,0
	6	13,1	20,5	43,4	23,0
Unity ( <i>Persatuan</i> )	7	9,8	25,4	38,5	26,2
	8	0	3,3	45,9	50,8
	9	4,1	9,8	44,3	41,8
Democracy ( <i>Musyawarah dan Kufakat</i> )	10	1,6	13,9	56,6	27,9
	11	0,8	9,8	59,0	30,3
	12	2,5	7,4	58,2	32,0
Justice ( <i>Keadilas Sosia</i> )	13	0,8	2,5	35,2	61,5
	14	0	0,8	28,7	70,5
	15	3,3	10,7	49,2	36,9

Based on Table 1, it can be understood that the majority of Muslim postgraduate students agree with the values and principles of Pancasila.

## CONCLUSION

From the analysis, it is evident that the relationship between Pancasila and Islam in Indonesia reflects a state that prioritizes humanity and embraces multicultural differences. There is no need to assume that Pancasila diverges from the Islamic values in the Qur'an and Hadith, as there is no conflict between Islam

and Pancasila. All principles of Pancasila align with Islamic teachings, such as the belief in one God, justice, civility, unity, deliberation, and social welfare. The Indonesian state, based on Pancasila with belief in one Almighty God, balances the relationship between state and religion, allowing citizens to practice their faith freely and peacefully. This relationship is mutually beneficial; religion supports the state's moral values, and the state facilitates religious development. Understanding Pancasila and Islam should be emphasized in education, both cognitively and practically, to foster democracy and high tolerance among students, enhancing their character and understanding of these principles.

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