

The Challenge of Pancasila as the Basis of the Constitution in the Era of Globalization

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Abstract

Pancasila is the basis of the philosophy (*Philosophische Grondslag*) and the basic norm (*Grundnorm*) of the Indonesian state, making it an ethical system and the highest source of all sources of law. His position, which was affirmed in the Preamble to the 1945 Constitution of the Republic of Indonesia, placed him as a norm of examiner and guide for the constitution. In the context of the challenges of globalization, Pancasila, especially the Third Precept, has a fundamental urgency to maintain national unity and realize social justice. Although there are often implementation deviations in state practice, this theoretical research emphasizes that strengthening the understanding and application of Pancasila values at all levels, from education to public policy, is indispensable to ensure that the constitution and constitutional practices are in harmony with the noble ideals of the nation.

Keywords : *Pancasila, Constitution, Globalization, Norms, Unity*

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A. Introduction

Pancasila is a "Philosophische grondslag" which is also interpreted as the basis of the state (Widiuseno, 2014, pp. 62–66). It contains the values and ideals of the Indonesian nation (Wahana, 1993, p. 75). As an ethical system, Pancasila describes basic values that become guidelines for the behavior of individuals, society, and the government in various aspects of life. The naming of Pancasila pioneered by Sukarno cannot be separated from the history of its birth on June 1, 1945 which in his speech entitled *Lahirnja Pantja Sila* in front of the BPUPKI forum (Kusumohamidjojo, 2020, p. 194). In the context of the intellectual history of Pancasila, it is referred to by him as the basis of philosophy (Philosofische grondslag) or the irchangeable *Weltanschauung* (Jimly, 2014).

The five values of the precepts contained in Pancasila, namely the One Godhead, Just and Civilized Humanity, Indonesian Unity, Peoples Led by Wisdom in Representative Deliberation, and Social Justice for All Indonesian People are the basis of the state that reflects the philosophy of life of the nation and the state of Indonesia. Thus, its existence becomes important as a basic norm (Grundnorm/Staatsfundamentalnorn) (Dyah Ochtorina Susanti & A'an Efendi, 2021, p. 523). These basic norms provide a strong foundation for the development and administration of a just, democratic, and together-based state.

The urgency of Pancasila as an ethical system lies in its role in strengthening unity, justice, and welfare for all Indonesian people, as well as as a moral guide that maintains harmony and tolerance between religious, ethnic, and cultural communities in community life.

In the era of globalization, the challenges to national identity are increasingly complex and diverse. In the midst of many foreign information and cultural flows, the values of Pancasila, especially in the Third Precept of "Indonesian Unity", are one of the important elements that must be maintained and strengthened. Indonesia, as a country rich in cultural and ethnic diversity, has its own challenges in maintaining the unity and unity of the nation. The third precept of Pancasila is the main foundation in building a strong national identity. However, problems such as separatism, injustice, and radicalism are still challenges to realize the unity of the country. The application of the values contained in the third precept of Pancasila is very relevant in facing the challenges of globalization. The value of unity contained in the third precept not only aims to strengthen the nation's identity in the midst of external cultural influences, but also serves to maintain national identity,

preserve culture, and can increase tolerance. In the context of globalization and the challenges of the times, the understanding and implementation of Pancasila as an ethical system is increasingly important to build a sovereign, just, and prosperous nation.

B. Constitution: Implementation of Pancasila

Pancasila is the highest law in the Republic of Indonesia and serves as a guideline for the government. According to Notonagoro (Wahana, 1993, p.35), Pancasila is a term to give a name to a foundation of state philosophy, and does not intend to state that there are five foundations of Indonesian state philosophy (panca).

All parts of the Indonesian state – the people, the land, and the government – are part of this. Several problems faced by the Indonesian nation, including the challenges of democracy and diversity. Pancasila is a spiritual principle and a set of legal ideals, and functions as the foundation of the state. Therefore, Pancasila is the moral foundation and positive laws of Indonesia, as well as state values, standards, and regulations. Both the 1945 Constitution and unwritten laws in this country are subject to Pancasila. Pancasila has binding legal force because it is the basis of the state.

Historically, Pancasila is an idea formulated to be the foundation of the Indonesian nation in filling freedom. Over time, Pancasila as the basis of the nation-state was formed based on the values of the nation's life and the outlook on life of the Indonesian nation, as well as eastern culture which was agreed as a unified view of life for the nation and state of Indonesia. Therefore, Pancasila must be given as a legacy for the next generation ranging from elementary education to higher education.

Juridical-constitutional, the position of Pancasila as the basis of the state is affirmed in the Preamble to the Constitution of the Republic of Indonesia of 1945 in the fourth paragraph. In the paragraph, it is stated that: "... The State Structure of the Republic of Indonesia with people's sovereignty, based on: One Godhead, Just and Civilized Humanity, Indonesian Unity, Democracy led by wisdom in deliberation/representation, and by realizing social justice for all Indonesian people.

Hans Kelsen in his theory of *Stufenbau des Rechts* or the hierarchy of legal norms states that the legal system is built on basic norms (*Grundnorm*), which is the highest reference of the norms below it.¹⁰ In the Indonesian context, Pancasila occupies a position as a *grundnorm*, while the 1945 Constitution is a basic constitutional norm

derived from the values of Pancasila. The consequence of placing Pancasila as the source of all legal sources is that all legal regulations must be in accordance with Pancasila. Any regulation that contradicts Pancasila must be declared null and void for the sake of the law. Therefore, the Constitutional Court in its legal rulings often mentions Pancasila as a benchmark for the constitutionality of a law.

Unfortunately, in the practice of policy formulation and implementation, there are often deviations from the values of Pancasila. For example, there are policies that do not support social justice, or corrupt practices that are clearly contrary to human values and morality. This shows that there is a gap between the ideals of Pancasila as the basis of the state and the reality of its implementation. For this reason, it is necessary to strengthen the Pancasila-based national legal system, both in the process of legislation, law enforcement, and public policy supervision. In addition, it is also necessary to reform the legal education system so that prospective law enforcement officials understand Pancasila not only as a symbol, but as a basic value of life that must be applied in legal practices and policies.

C. The Role of Pancasila in the Constitution

Pancasila has a very fundamental role as the basis of the state (*Philosophische Grondslag*) and the source of all sources of law (*Staatsgrundgesetz*) in the Republic of Indonesia. As a *Philosophische Grondslag*, Pancasila provides a philosophical foundation, values, and noble ideals that become the spirit or soul for the formation, formulation, and interpretation of all legal norms, including the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) as the supreme constitution. This role ensures that every article, verse, and provision in the Constitution must be sourced and must not contradict the values of God, Humanity, Unity, People, and Social Justice. In other words, Pancasila functions as a basic norm or *Grundnorm* which is a prerequisite for formal and material legitimacy for the constitution.

In the legal context, Pancasila also acts as a testing norm (*toetsingsnorm*) for the content of the 1945 Constitution of the Republic of Indonesia and legal products under it. Although the 1945 Constitution is the highest law in the legislative hierarchy structure, the values contained in the five precepts of Pancasila are an absolute criterion to measure whether a constitutional norm truly reflects and embodies the nation's legal ideals. Pancasila also acts as a guiding norm that provides direction and goals in the development of national law,

ensuring that the Constitution and other legislation products are always interpreted and implemented in such a way that they always serve the achievement of state goals based on Pancasila values, such as social justice and divine democracy.

Lastly, Pancasila plays the role of a national consensus that binds all elements of the nation, and therefore becomes the ethical foundation for the Constitution. It is a noble agreement and a meeting point of diversity in Indonesia, which functions as a unifying principle that prevents disintegration. The Constitution is the operational form of this consensus; it regulates the structure of power and human rights, but Pancasila provides moral substance and ideological integrity to the Constitution, ensuring that the practice of constitutional administration is always within the corridor of Pancasila Democracy. The relationship between the two is hierarchical and organic, where Pancasila is the *causa prima* (main cause) for the existence and validity of the Constitution.

D. Conclusion

Pancasila is the "Philosophische Grondslag" as well as the Grundnorm (basic norm) of the Indonesian state, which contains noble values and national ideals. Historically and juridically-constitutionally, Pancasila is the source of all legal sources whose position is affirmed in the Preamble to the 1945 Constitution of the Republic of Indonesia. In theory, Pancasila functions as a philosophical foundation, a testing norm, and a guiding norm for the entire legal system and the Constitution. Although in practice there are often irregularities, the urgency of Pancasila as an ethical system remains fundamental to maintain national unity (the Third Precept), realize social justice, and build a sovereign nation in the midst of globalization challenges. Therefore, strengthening the understanding and implementation of Pancasila values from the education system to public policy is absolutely necessary to ensure that the Constitution and constitutional practices are always in harmony with the noble ideals of Pancasila Democracy.

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