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# The Transformation of Pancasila Admist Global Constitution Dynamics

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## Abstract

This study examines the transformation of Pancasila in facing the dynamics of global constitutionalism. Globalization has brought significant challenges to national ideologies, including Pancasila as the foundational philosophy of the Indonesian state. Through qualitative approach with literature study, this research analyzes the position of Pancasila within Indonesia's constitutional system and how its values transform in response to principles of global constitutional governance. The findings indicate that Pancasila undergoes reinterpretation and adaptation of its values without losing its ideological identity. This transformation manifests in human rights law reforms, adjustments to international treaties, and harmonization between Pancasila's collectivist values and global liberal individualism. This research recommends maintaining the flexibility of Pancasila's interpretation while preserving the essence of its noble values, and utilizing Pancasila as soft power in diplomacy and the formation of more just global governance.

**Keywords :** *Pancasila, global constitutional, ideology, global democracy, globalization.*

## A. Introduction

The post-Cold War era, which occurred worldwide, brought fundamental changes to the international legal and political system. This globalization has impacted not only economic and technological systems but also the ideological values of nation-states, a phenomenon known as global constitutionalism.

Global constitutionalism is an agenda that studies constitutional principles in international law. This global constitutionalism is characterized by the emergence of constitutional features in international law that aim to compensate for the constitutional deficit at the national level triggered by globalization

The importance of this research lies in the need to understand how national ideology can maintain its relevance in the era of globalization without losing its fundamental identity. Indonesia, as the world's third-largest democracy after India and the United States, operating a democratic system based on Pancasila values, holds a strategic position in global discourse on alternative models of democracy and governance.

On the other hand, international pressure on issues of human rights, democracy, and good governance demands that Indonesia continuously adapt its national policies. The ratification of various international conventions such as the ICCPR and ICESCR demonstrates Indonesia's commitment to international standards, but simultaneously raises questions about how this harmonization can be achieved without sacrificing the values of local wisdom contained in Pancasila.

## B. Pancasila's Position in Indonesia's Constitutional Architecture

Pancasila occupies an exceptional and foundational position within Indonesia's constitutional structure, functioning simultaneously as philosophical foundation, source of legal authority, and cultural symbol of national identity. The Preamble to the 1945 Constitution establishes Pancasila as the fundamental norm of the state—thereby positioning it at the apex of Indonesia's legal hierarchy. This constitutional placement means that all subsequent legislation, regulation, and governmental action must align with Pancasila's principles; inconsistency with Pancasila provides grounds for

constitutional invalidation by the Constitutional Court. Beyond its formal legal status, Pancasila represents what Indonesian constitutional scholars term an "open ideology", a philosophical framework sufficiently flexible to accommodate changing social conditions and new challenges while maintaining core principles.<sup>8</sup> This openness distinguishes Pancasila from more rigid ideological systems and provides theoretical justification for the adaptive transformation this study examines.

The five principles of Pancasila form an integrated whole rather than a mere collection of separate values. The first principle, Belief in One Supreme God, establishes Indonesia as neither a secular state excluding religion from public life nor a theocratic state imposing a particular religious orthodoxy, but rather what might be termed a "religiously grounded pluralist state."<sup>9</sup> Constitutional provisions guarantee freedom of religion and protect the rights of adherents of six officially recognized faiths: Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism while Article 29 of the Constitution affirms that the state is based on belief in One Supreme God. This formulation has generated ongoing debate regarding the status of non-theistic belief systems and atheism, with critics arguing that compulsory religious affiliation contradicts universal human rights standards of freedom of thought, conscience, and religion.<sup>10</sup>

The second principle, Just and Civilized Humanity, explicitly connects Indonesian constitutionalism to universal human rights norms. This principle found expression in the Constitution's original text and gained enhanced significance following Indonesia's democratic transition in 1998, which precipitated extensive constitutional amendments including the addition of an entire chapter devoted to human rights (Chapter XA, Articles 28A through 28J). These provisions enumerate civil, political, economic, social, and cultural rights largely mirroring international human rights instruments. The Constitutional Court has interpreted Just and Civilized Humanity as requiring Indonesia to recognize and protect human dignity as the foundation of all rights, thus harmonizing indigenous ideology with universal human rights philosophy.<sup>11</sup> This interpretation demonstrates Pancasila's capacity to accommodate and internalize global norms rather than standing in opposition to them.

Unity of Indonesia, the third principle, addresses the perpetual challenge of maintaining national cohesion across extraordinary diversity. Indonesia comprises over 17,000 islands, hundreds of ethnic groups, and myriad languages and cultural traditions. The national

motto *Bhinneka Tunggal Ika* (Unity in Diversity), derived from a fourteenth-century Javanese text, encapsulates the Pancasila vision of unified nationhood that preserves rather than erases difference. From a constitutional perspective, this principle requires balancing central authority with regional autonomy, a balance pursued through Indonesia's decentralization reforms initiated following democratization. Unity of Indonesia also carries implications for international relations, shaping Indonesia's longstanding commitment to territorial integrity principles in international law and its advocacy for state sovereignty against what it perceives as excessive internationalization of domestic matters.

The fourth principle, Democracy Guided by Wisdom through Deliberation and Representation, articulates a distinctive democratic vision emphasizing consensus-building deliberation (*musyawarah*) over adversarial majoritarianism. This principle draws from traditional Indonesian communal decision-making practices where communities seek unanimous agreement through extended discussion rather than simply counting votes. Contemporary Indonesia operates a competitive electoral democracy with multiple political parties, regular elections, and peaceful transfers of power— institutional features characteristic of liberal democracy globally. Yet the deliberative emphasis remains significant in legislative processes, where multi-party coalitions predominate and parliamentary procedures encourage consensus where possible. This deliberative democratic tradition offers potential contributions to global democratic theory, suggesting alternatives to the polarization and gridlock increasingly afflicting majoritarian systems.<sup>12</sup>

Social Justice for All Indonesian People, the fifth principle, embodies commitments to economic equity and collective welfare that distinguish Pancasila from liberal constitutional frameworks prioritizing individual liberty and market freedom. Article 33 of the Constitution declares that the national economy shall be organized as a common endeavor based upon family principles, that sectors vital to the state and affecting the livelihood of the people shall be controlled by the state, and that natural resources shall be utilized for the greatest welfare of the people. These provisions reflect social democratic principles and resonate with what Peters identifies as the emerging social dimension of global constitutionalism—the recognition that economic and social rights merit constitutional protection and that market governance requires democratic accountability.<sup>13</sup> Indonesia's Constitutional Court has interpreted the fifth principle as requiring state action to reduce

inequality and ensure basic needs provision, though implementation remains contested amid competing economic ideologies.

### C. Global Constitutionalism and the Challenge to /national Ideologies

Global constitutionalism represents both a descriptive observation about evolving international law and a normative project seeking to apply constitutional principles beyond the nation-state. Peters, among the concept's leading theorists, argues that global constitutionalism addresses legitimacy deficits in international law and global governance by introducing constitutional features such as rights protection, democratic accountability mechanisms, and judicial review into domains traditionally governed by inter-state bargaining alone.<sup>14</sup> The process involves multiple dimensions: substantive norms acquire quasi-constitutional status (*jus cogens* norms that states cannot derogate from even by treaty); international institutions develop internal constitutionalism through their founding documents and institutional practices; and transnational networks of courts engage in constitutional dialogue that gradually harmonizes interpretations of fundamental rights and principles across legal systems.

For nation-states including Indonesia, global constitutionalism presents both opportunities and challenges. Opportunities arise from the potential for international legal frameworks to reinforce domestic constitutional commitments, particularly regarding human rights protection where domestic political will may waver. International treaty obligations create external accountability mechanisms that civil society actors can leverage to advance rights protection at home. Indonesia's ratification of core international human rights treaties including ICCPR and ICESCR illustrates this dynamic, as domestic human rights advocates invoke international standards to press for legal reforms and challenge governmental violations. The Constitutional Court explicitly references international human rights law in its interpretive methodology, treating ratified treaties as relevant interpretive sources even though Indonesian constitutional doctrine maintains that international law requires legislative transformation to possess domestic legal effect.<sup>15</sup>

Challenges emerge from tensions between universal norms and particular cultural traditions, and from concerns about sovereignty and democratic self-determination. Critics of global constitutionalism, including from the Global South, argue that ostensibly universal

principles often reflect Western, particularly European, philosophical traditions and political preferences.<sup>16</sup> They contend that global constitutionalism risks imposing a homogenizing influence that devalues non-Western legal traditions and constrains legitimate democratic choices about economic organization, family law, religious accommodation, and other matters where reasonable people across cultures disagree. Indonesia has voiced such concerns in international forums, particularly regarding issues perceived as reflecting Western cultural assumptions about individualism, secularism, and sexuality. The Organization of Islamic Cooperation's adoption of the Cairo Declaration on Human Rights in Islam (1990) exemplifies attempts to articulate alternative human rights visions grounded in different philosophical and religious traditions.

International institutions including the World Trade Organization, International Monetary Fund, and World Bank exert influence on domestic policy through conditionality, technical assistance, and ideational power, sometimes pressing for reforms that conflict with social justice provisions of Pancasila's fifth principle. Structural adjustment programs and trade liberalization requirements associated with these institutions have historically demanded privatization of state enterprises, reduction of subsidies, and other measures seemingly at odds with Article 33's vision of state economic control for public benefit. Such tensions illustrate how global constitutionalism intersects with global economic governance in ways that advantage some constitutional visions—specifically those prioritizing private property, market efficiency, and limited government intervention—over alternatives emphasizing collective welfare and economic democracy.

The United Nations human rights system presents another arena where global norms engage with Pancasila. Indonesia participates in the Universal Periodic Review process through which its human rights performance undergoes evaluation by other states, and it submits periodic reports to treaty monitoring bodies on implementation of ICCPR, ICESCR, and other conventions. These processes generate recommendations for legislative reform, policy adjustment, and enhanced enforcement mechanisms. Some recommendations align smoothly with Pancasila's principles—for instance, calls for stronger labor rights protections resonate with the social justice principle. Others prove more contentious, such as

recommendations to legalize same-sex marriage or eliminate religious prerequisites for certain legal transactions, which conservative domestic constituencies view as incompatible with Pancasila's first principle emphasizing belief in God. Navigating such tensions requires careful interpretation of Pancasila's principles and sophisticated engagement with international interlocutors about authentic pluralism versus harmful discrimination.

## ***TRANSFORMATION OF PANCASILA VALUES IN GLOBAL CONTEXT***

### ***1. Adaptation of Devine Values and Religious Pluralism***

Pancasila's first principle, Belief in One Supreme God, undergoes continuous reinterpretation as Indonesia navigates between its indigenous philosophical commitments and international human rights standards regarding freedom of religion or belief. The Constitution's religious framework differs markedly from both European-style secularism that excludes religious considerations from public discourse and theocratic models that enforce particular religious orthodoxies. Instead, Indonesian constitutionalism adopts what might be termed "cooperative pluralism"—the state actively supports religion while maintaining neutrality among recognized faiths and protecting adherents' rights to practice their beliefs.<sup>17</sup> This arrangement reflects historical compromise between Islamic political movements seeking an explicitly Islamic constitutional foundation and secular nationalists advocating strict separation of religion and state. Sukarno's articulation of Pancasila in 1945 deliberately positioned the first principle to accommodate this compromise, affirming religious values as foundational while avoiding identification with any single faith tradition.

Contemporary transformation of this principle occurs through Constitutional Court jurisprudence, legislative reform, and evolving social practices. The Court has interpreted freedom of religion to include not merely freedom to hold beliefs privately but also freedom to manifest religion through worship, observance, practice, and teaching—an interpretation aligned with Article 18 of the ICCPR. Significant cases include the Court's review of the 1965 Blasphemy Law, challenged by civil society groups as unduly restricting religious freedom by criminalizing "deviant" interpretations of recognized religions and

effectively privileging official orthodoxies over minority perspectives within faith traditions. The Court upheld the law's validity while emphasizing that its application must conform to constitutional protections for religious freedom and must avoid discriminatory enforcement.<sup>18</sup> This decision illustrates transformation through interpretive constraint—maintaining existing legal frameworks while cabining their application through constitutional principles.

International pressure and transnational religious freedom advocacy networks have influenced Indonesia's approach to religious pluralism. The United States Commission on International Religious Freedom periodically places Indonesia on its watchlist, highlighting concerns about intolerance toward religious minorities including Christians in certain regions, Ahmadiyya Muslims whose beliefs mainstream Indonesian Islamic organizations reject as heretical, and Shia Muslims facing occasional persecution. Such international scrutiny generates domestic debate about Pancasila's interpretation, with religious freedom advocates arguing that authentic application of the first principle requires protecting all manifestations of belief, while conservative religious and nationalist groups counter that maintaining social harmony justifies certain limitations on religious expression that threatens public order<sup>19</sup>

Transformation also occurs through expanding recognition of indigenous belief systems. Historically, adherents of traditional religions faced pressure to affiliate with one of the six officially recognized faiths, as identity documents required citizens to declare religious affiliation from this limited menu. Constitutional Court Decision No. 97/PUU-XIV/2016 struck down provisions requiring citizens to list a recognized religion on identity cards, holding that compulsory religious identification violated constitutional guarantees of freedom of religion and discriminated against adherents of indigenous faiths. The Court reasoned that Belief in One Supreme God does not require adherence to organized religion as conventionally understood, but encompasses all sincere religious conviction.<sup>20</sup> This decision represents significant transformation—reinterpreting Pancasila's first principle to protect a broader range of religious expression than previously acknowledged. It demonstrates how engagement with international human rights norms, which influenced the petitioners' arguments and the Court's reasoning, can prompt more inclusive interpretation of indigenous constitutional principles.

## ***2. Modernization of Humanitarian Values and Human Rights***

Pancasila's second principle, Just and Civilized Humanity, provides the primary foundation for Indonesia's engagement with international human rights law. This principle explicitly references humanity (*kemanusiaan*), a concept resonating strongly with the human dignity principles central to universal human rights discourse. The 1945 Constitution's Preamble declares that independence is the inherent right of all nations and that colonialism must be abolished as incompatible with humanity and justice— language that positions Indonesia's anticolonial struggle within a broader universal framework of human freedom. Post-authoritarian constitutional amendments substantially strengthened human rights protections, adding Chapter XA enumerating specific rights and establishing the Constitutional Court with jurisdiction to review legislation's conformity with constitutional rights provisions.<sup>21</sup>

Legislative developments have operationalized Just and Civilized Humanity through comprehensive human rights legislation. Law No. 39 of 1999 on Human Rights represents landmark legislation providing detailed enumeration of civil, political, economic, social, and cultural rights aligned with Indonesia's international treaty obligations. The law explicitly references the UDHR and other international instruments in its preamble, demonstrating self-conscious integration of global human rights standards into domestic law. Significantly, the law adopts language substantially parallel to international treaty texts— for instance, its provisions on non-discrimination, rights of women, rights of children, and prohibition of torture closely track ICCPR and ICESCR formulations. This legislative approach exemplifies transformation through incorporation, where international norms become domesticated and presented as consistent with Pancasila rather than as external impositions.<sup>22</sup>

Institutional development further manifests transformation of humanitarian values. Indonesia established the National Human Rights Commission (Komnas HAM) in 1993, subsequently granted stronger mandate and independence through Law No. 39 of 1999. Komnas HAM investigates alleged violations, provides recommendations for remedies, and submits reports to international treaty bodies on Indonesia's human rights implementation. Its existence and activities reflect acceptance that human rights protection requires independent oversight of governmental action, a principle aligned with international standards regarding National Human Rights Institutions as articulated in the Paris Principles adopted by the United Nations. The Human

Rights Court, established under Law No. 26 of 2000, provides specialized jurisdiction for gross human rights violations including genocide and crimes against humanity, incorporating international humanitarian law concepts into Indonesia's judicial system.<sup>23</sup>

Constitutional Court jurisprudence has developed an interpretive methodology that treats Just and Civilized Humanity as requiring Indonesia to respect human dignity as the foundation of all rights—a principle parallel to German constitutional law's *Menschenwürde* doctrine and to the human dignity language in numerous international human rights instruments. In reviewing legislation that petitioners challenged as violating rights, the Court asks whether the measure respects human dignity, treats individuals as autonomous moral agents rather than mere objects of state power, and pursues legitimate public purposes through proportionate means.<sup>24</sup> This interpretive framework demonstrates sophisticated engagement with global constitutional dialogue while maintaining grounding in Pancasila's own text and values. The Court explicitly rejects any hierarchy between civil and political rights on one hand and economic, social, and cultural rights on the other—consistent with Pancasila's holistic vision and with contemporary international human rights law's recognition of the indivisibility and interdependence of all rights categories.

Tensions persist regarding certain rights where international standards and domestic values appear to conflict. Issues surrounding sexual orientation and gender identity exemplify such tensions, as international human rights bodies increasingly interpret non-discrimination principles to prohibit discrimination based on sexual orientation, while conservative religious constituencies in Indonesia resist legal recognition of same-sex relationships or gender identity claims at odds with biological sex at birth. The Constitutional Court has generally deferred to legislative judgment on such matters, declining to invalidate laws criminalizing same-sex conduct or denying legal recognition to transgender identities, while emphasizing that enforcement must avoid gratuitous cruelty and that social debate should continue.<sup>25</sup> This cautious approach reflects transformation's limits—areas where the Court perceives social consensus as insufficient to support dramatic reinterpretation of existing norms, even as international pressure for change intensifies. Yet even here, transformation occurs incrementally through administrative practice and civil society advocacy gradually shifting attitudes and policy implementation.

### ***3. Transformation of Democratic Values***

Indonesia's democratic transformation following the 1998 fall of President Suharto's authoritarian New Order regime represents perhaps the most dramatic reconfiguration of Pancasila's fourth principle—Democracy Guided by Wisdom through Deliberation and Representation. The New Order had instrumentalized Pancasila to justify authoritarian practices, claiming that Western-style liberal democracy proved unsuitable for Indonesia and that "Pancasila democracy" required firm leadership and controlled political participation. Post-authoritarian reform dismantled this interpretation, embracing competitive electoral democracy, multi-party competition, direct presidential elections, regional autonomy, and robust civil society space.<sup>26</sup> This transformation illustrates Pancasila's malleability—the same ideological principles justified authoritarianism under Suharto and underwrite democratic governance today, demonstrating that ideology's meaning depends substantially on interpretive choices by political actors and constitutional interpreters.

Contemporary Indonesian democracy combines institutions characteristic of liberal democracy globally—regular competitive elections, peaceful transfers of power, judicial independence, free press—with distinctive features reflecting Pancasila's deliberative emphasis. Legislative procedure in the House of Representatives (DPR) privileges consensus where achievable, with voting as a last resort rather than normal practice. Coalition government dominates Indonesian politics, with presidential cabinets typically including multiple parties in broad coalitions cutting across ideological lines. These practices reflect the *musyawarah-mufakat* tradition of seeking unanimous or near-unanimous agreement through extended deliberation rather than simply aggregating pre-existing preferences through majority vote.<sup>27</sup> Whether this produces superior policy outcomes remains debated, but it arguably promotes political stability and social cohesion by ensuring broad buy-in for major decisions.

Indonesia's democratic experience offers potential contributions to global democratic discourse facing challenges of polarization, gridlock, and declining public trust in many established democracies. Recent scholarship on deliberative democracy emphasizes the importance of genuine discussion and mutual justification in legitimate decision-making, arguing that mere vote aggregation fails to produce decisions that citizens can recognize as legitimate expressions of collective will.<sup>28</sup> Indonesian constitutional culture's emphasis on

deliberation resonates with such scholarship, suggesting that Pancasila's fourth principle might inform global democratic theory rather than merely receiving influence from Western democratic models.

#### D. Conclusion

This research finds that Pancasila undergoes significant transformation in facing the dynamic of global constitutionalism. This transformation manifests in the form of adaptation and reinterpretation of Pancasila values to respond to the demands of globalization without losing its fundamental Ideological identity. The position of Pancasila in global constitutionalism is unique: on the one hand, Pancasila offers an alternative perspective emphasizing balance between individual rights and collective interest, between freedom and social responsibility.

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