

Pancasila and the Principle of Legal Certainty in the Indonesian Legal

Zulfa Faria Afiana¹

¹Faculty of Law, Universitas Negeri Semarang,
Semarang, Indonesia. <https://orcid.org/0009-0002-9518-959X>

✉ Corresponding email: zulfafaridaafiana@students.unnes.ac.id

Abstract

The Indonesian state of law based on Pancasila (Rechtsstaat Pancasila) places legal certainty as a fundamental principle to ensure stability, justice, and legal utility. However, a significant problem arises regarding how these ideological values are integrated into formal legal structures without losing their substantive essence, especially in facing the challenges of regulatory inconsistencies. This article critically examines how Pancasila, operating as the Staatsfundamentálnorm of the Indonesian legal order, constructs a conception of legal certainty that diverges from and challenges the thin, positivistic rule-of-law models prevalent in Western liberal constitutionalism. Drawing on Lon Fuller's eight requirements of the "Inner Morality of Law," Brian Tamanaha's distinction between thin and thick rule-of-law

conceptions, and the emerging discourse of Transformative Constitutionalism in the Global South, this article argues that Rechtsstaat Pancasila constitutes a “thick” rule-of-law model that integrates formal legality, human dignity, and deliberative democracy into a coherent jurisprudential framework. A central focus is the Constitutional Court’s Decision Number 91/PUU-XVIII/2020 on the Job Creation Law, which is analyzed not only as an affirmation of procedural fairness, but also as an instance of contested judicial activism: by introducing the doctrine of “Conditionally Unconstitutional,” the Court simultaneously advanced substantive justice and generated new dimensions of legal uncertainty a paradox that reveals the inherent tensions in operationalizing Pancasila values through judicial mechanisms. This research contributes to global constitutionalism literature by positioning Pancasila as a non-Western model of constitutionalism that resists both Asian Values exceptionalism and uncritical importation of liberal legal norms.

Keywords: *Pancasila; legal certainty; Rechtsstaat; transformative constitutionalism; judicial activism; Global South constitutionalism*

A. Introduction

Indonesia is a state of law (Rechtsstaat) affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, with Pancasila as the basis of the state, in the legal doctrine Pancasila is seen as the main source that becomes the basis for all other sources of law.¹ The principle of legal certainty, as guaranteed by Article 28D paragraph (1) of the 1945 Constitution, requires the recognition of rights, guarantees of protection, and fair legal certainty for all citizens as a constitutional

¹ Dwi, A. (2023). *"The Meaning of Indonesia as a State of Law"*. Retrieved from Postgraduate University of Muhammadiyah North Sumatra

mandate.² However, previous studies such as Arief Hidayat have highlighted that a state of law based on Pancasila must be in harmony with legal ideals (*rechtsidee*) such as the integration of the nation and people's sovereignty.³

The central problem this article addresses is both theoretical and practical: how does a legal system ground its conception of legal certainty in an ideological-philosophical framework Pancasila without either collapsing into abstract moral proclamations that undermine legal predictability, or degenerating into a procedural formalism that strips the law of its ethical foundation? This tension has been noted in previous scholarship, but has not been systematically engaged through the lens of global constitutional theory.

This article makes three interrelated theoretical contributions. First, it repositions the debate about legal certainty in Indonesia from a descriptive-normative register to an analytically critical one, by deploying Lon Fuller's "Inner Morality of Law" and Brian Tamanaha's thick/thin rule-of-law typology as comparative analytical tools. Second, it offers a critical reading of Constitutional Court Decision Number 91/PUU-XVIII/2020, arguing that the doctrine of "Conditionally Unconstitutional" represents a form of Pancasila-grounded judicial activism that is simultaneously emancipatory and uncertainty-generating. Third, it situates Rechtsstaat Pancasila within the broader discourse of Transformative Constitutionalism in the Global South.

The methodology applied is normative juridical research. The primary legal norms that are the main foothold are the 1945 Constitution and related regulations. The Pancasila approach is operationalized as an *analytical filter*: each sila (precept) is read not as a static normative

² Wulandari, T. (2021). *"The Meaning of Article 28 in the 1945 Constitution for Human Rights"*. Retrieved from detikcom

³ Hidayat, A. (2019). *"A State of Law with the Character of Pancasila"*. Constitutional Court of the Republic of Indonesia.

formula but as a dynamic principle that generates specific demands on the formation, interpretation, and enforcement of law.

B. Result and Discussion

1. Pancasila as the Basis of the Rule of Law

Pancasila serves as the basic norm (Staatsfundamentalnorm) and the highest source of law in the Indonesian legislative hierarchy, as affirmed in Law No. 12 of 2011 concerning "Establishment of Laws and Regulations" as amended by Law No. 13 of 2022, which requires that all laws must be materially aligned with Pancasila as the foundation of the state.⁴

The concept of Rechtsstaat Pancasila that applies in Indonesia has different characteristics from the concept of continental European Rechtsstaat, especially Germany. If the German Rechtsstaat is positivistic and secular which purely relies on written positive laws as legitimacy, then the Rechtsstaat Pancasila is ideological. According to Prof. Notonagoro in his theory of Pancasila law, the Indonesian legal state must prioritize the values of national integration, deliberative democracy, and nomocracy based on the precepts of Pancasila.⁵

Thus, legal certainty in the framework of Pancasila does not only meet the principle of legality formality (there is no crime without a prior written law, as in Article 1 paragraph (1) of the Criminal Code), but is also substantive. This substantive legal certainty is based on just and civilized human values and social justice for all Indonesian people.⁶ Constitutional practice shows that the Constitutional Court uses Pancasila and the 1945 Constitution as parameters for

⁴ Wells, F. Y. (2018). "Pancasila as a Source of Law in the National Legal System". *Journal of the Constitution*, 21-49.

⁵ Latif, Y. (n.d.). "Pancasila as the Basic Norm of the State: Its Implications for the Formulation of the Constitution". Retrieved from bphn.go.id

⁶ Sayuti. (2016). "The Concept of Rechtsstaat in the Indonesian Legal State" *Journal of Legal Studies*.

testing the material and formal law, for example in Decision Number 91/PUU-XVIII/2020 which states that the establishment of the Job Creation Law is contrary to the 1945 Constitution due to procedural defects and orders improvements to ensure fair legal certainty.⁷

2. Theoretical Framework: Fuller, Tamanaha, and Transformative Constitutionalism

Any serious engagement with legal certainty must begin with Lon Fuller's seminal account of the "Inner Morality of Law," which identifies eight formal requirements that a legal system must satisfy to be genuinely law-like: generality, promulgation, non-retroactivity, clarity, non-contradiction, possibility of compliance, constancy, and congruence between official action and declared rule.⁸ Fuller's framework is instructive for evaluating the Indonesian legal system precisely because it sets minimum formal thresholds that any legal order must meet to provide meaningful legal certainty. The persistent inconsistency between regional regulations (*perda*) and central legislation constitutes, on Fuller's account, a failure of the non-contradiction requirement.

Brian Tamanaha's distinction between "thin" and "thick" rule-of-law conceptions provides the second pillar of the theoretical framework.⁹ A thin rule of law requires only that government action be authorized by law and that law be applied consistently essentially the formal-positivist tradition associated with Kelsen. A thick rule of law additionally requires that the law be substantively just, that it protect human rights, promote democracy, and advance

⁷ Constitutional Court Decision Number 91/PUU-XVIII/2020 concerning "Formal Examination of Law Number 11 of 2020 concerning Job

⁸ Fuller, L. L. (1964). *The Morality of Law*. New Haven: Yale University Press, pp. 38–39

⁹Tamanaha, B. Z. (2004). *On the Rule of Law: History, Politics, Theory*. Cambridge: Cambridge University Press, pp. 91–113.

social welfare.¹⁰ This article argues that *Rechtsstaat Pancasila* is structurally positioned as a thick rule-of-law model: its formal requirements of legality and hierarchy are embedded in a substantive normative framework derived from the five precepts of Pancasila.

The third theoretical pillar is Transformative Constitutionalism, a concept developed primarily in the context of post-apartheid South African law but now increasingly applied across the Global South.¹¹ Transformative constitutionalism holds that a constitution is not merely a framework for organizing government power but a normative project for social transformation.¹² This framework resonates powerfully with the Indonesian constitutional project: the Preamble to the 1945 Constitution explicitly commits the state to ‘protecting all Indonesian people,’ ‘advancing public welfare,’ and ‘realizing a just and prosperous society.’ Pancasila, in this reading, is not a static philosophical text but a transformative mandate.

Crucially, these three frameworks converge on a point that distinguishes *Rechtsstaat Pancasila* from both liberal constitutionalism and Asian Values discourse. Liberal constitutionalism, as articulated by Dworkin and Rawls, grounds legal certainty in individual rights and the separation of powers, but tends to treat the normative content of law as secondary to its procedural legitimacy.¹³ Asian Values discourse, associated with Mahathir Mohamad and Lee Kuan Yew, subordinates legal certainty to communal harmony and state authority, often at the

¹⁰Tamanaha, B. Z. (2004). *on the Rule of Law*. Cambridge: Cambridge University Press, p. 111.

¹¹Tushnet, M. (2008). *Weak Courts, Strong Rights: Judicial Review and Social Welfare Rights in Comparative Constitutional Law*. Princeton: Princeton University Press, pp. 18–22.

¹²Klug, H. (2000). *Constituting Democracy: Law, Globalism and South Africa's Political Reconstruction*. Cambridge: Cambridge University Press, pp. 4–6.

¹³Dworkin, R. (1986). *Law's Empire*. Cambridge: Harvard University Press, pp. 225–227.

expense of individual rights.¹⁴ Pancasila charts a different course: it integrates individual rights (sila 2), democratic legitimacy (sila 4), and social justice (sila 5) into a unified normative framework. This is not exceptionalism it is a genuine contribution to global constitutional theory from the Global South.

3. The Precepts of Pancasila and the Values of Law

Pancasila serves as the basic norm (*Staatsfundamentalnorm*) and the highest source of law in the Indonesian legislative hierarchy, as affirmed in Law No. 12 of 2011 concerning “Establishment of Laws and Regulations” as amended by Law No. 13 of 2022.¹⁵ The operationalization of Pancasila as an *analytical filter* requires reading each sila not as a static moral formula but as a dynamic normative principle that generates specific demands on the formation, interpretation, and enforcement of law.

The First Precept: Divine Morality as a Constitutional Limit

The first precept guarantees that every law must be based on divine morality that protects the right to life, freedom of religion, and public morality. Article 29 paragraph (2) of the 1945 Constitution explicitly protects freedom of worship.¹⁶ Constitutional Court Decision Number 97/PUU-XIV/2016, which mandated the recognition of indigenous faiths on ID cards, exemplifies how this precept operates as a constitutional limit on

¹⁴Bell, D. A. (2006). *Beyond Liberal Democracy: Political Thinking for an East Asian Context*. Princeton: Princeton University Press, pp. 19–25.

¹⁵Bo’a, F. Y. (2018). Pancasila sebagai Sumber Hukum dalam Sistem Hukum Nasional. *Jurnal Konstitusi*, 21–49.

¹⁶Republic of Indonesia. (1945). UUD 1945. Article 29 paragraph (2).

discriminatory legislation.¹⁷ On Fuller's account, this decision corrects a failure of congruence: the law as applied was inconsistent with the constitutional norm as declared.

The Second Precept: Human Dignity and Predictable Rights Protection

The second precept creates legal certainty through predictable and consistent protection of human rights. Articles 28I paragraph (1) to 28J of the 1945 Constitution guarantee fundamental human rights, some of which are non-derogable.¹⁸ In practice, the Constitutional Court has played a role in interpreting these rights, for example through Constitutional Court Decision Number 46/PUU-VIII/2010.¹⁹ Yet, as Tamanaha's thick rule-of-law framework reveals, formal recognition of rights is insufficient: what matters is whether rights are enforceable and whether citizens can reliably predict their legal position. The persistence of interfaith marriage restrictions despite the second precept's mandate of human dignity reveals a gap between constitutional aspiration and legal reality a gap that the thick rule-of-law model demands be closed.

The Third Precept: Regulatory Unity and the Challenge of Legal Pluralism

The third precept guarantees consistency and uniformity of national law, so that "islands of law" do not appear in areas that are contrary to the constitutional foundation of the Unitary State. The cancellation of over 3,143 problematic regional regulations reflects this precept's hierarchical discipline.²⁰ However, the deeper question raised by the

¹⁷Constitutional Court of the Republic of Indonesia. (2017). Decision Number 97/PUU-XIV/2016.

¹⁸Wulandari, T. (2021). Makna Pasal 28 dalam UUD 1945 untuk Hak Asasi Manusia. Detikcom.

¹⁹Constitutional Court of the Republic of Indonesia. (2012). Decision Number 46/PUU-VIII/2010.

²⁰Alvin, S. (2016). Jokowi Resmi Hapus 3.143 Perda Bermasalah. Liputan6.

legal pluralism literature²¹ is whether regulatory inconsistency is primarily a technical legislative failure or a symptom of structural tensions inherent in Indonesia's decentralized governance architecture. This article argues it is the latter: the failure to internalize Pancasila's normative framework at sub-national governance levels reflects a systemic deficit in constitutional education and institutional capacity, not merely poor legal drafting.

The Fourth Precept: Democratic Legitimacy and the Legitimacy Deficit

The fourth precept guarantees the democratic legitimacy of the formation of laws through the process of consensus deliberation in the House of Representatives. Article 22E of the 1945 Constitution and Law Number 12 of 2011 expressly require public participation through Public Hearing Meetings (RDPU) and public hearings as a prerequisite for the legality of the formation of laws.²² Constitutional Court Decision Number 91/PUU-XVIII/2020 declared the Job Creation Law conditionally unconstitutional due to a lack of adequate deliberation process.²³ Yet a deeper question remains: is the RDPU mechanism a genuine instrument of deliberative democracy, or a procedural formality that satisfies the letter of the fourth precept while bypassing its spirit? Without structural reform of parliamentary participation mechanisms, the fourth precept risks being reduced to a checklist rather than a constitutional commitment.

The Fifth Precept: Social Justice and the Limits of Formal Legality

The fifth precept complements formal legal certainty with

²¹Benda-Beckmann, K. von, & Turner, B. S. (2018). Legal Pluralism, Social Theory, and the State. *Journal of Legal Pluralism*, 50(3), 255–274.

²²Republic of Indonesia. (2011). Law Number 12 of 2011 concerning Establishment of Laws and Regulations.

²³Constitutional Court Decision Number 91/PUU-XVIII/2020 concerning Job Creation Law.

the dimension of legal usefulness (*doelmatigheid*) oriented towards distributive justice for all citizens. This mandate aligns with the main idea in the Preamble to the 1945 Constitution.²⁴ The fifth precept, as interpreted through the lens of Transformative Constitutionalism, demands that formal legality not sacrifice the interests of ordinary people it requires substantive justice over mere procedural compliance. On Dworkin's account, this is not judicial activism it is fidelity to the constitution's transformative mandate.

4. The Principle of Legal Certainty in the State of Law

The principle of legal certainty is the main foundation of the state of law (*Rechtsstaat*), encompassing three fundamental elements: legality (every action of the state and citizens must be based on written laws), consistency (the absence of inter-regulatory contradictions in the legislative hierarchy), and predictability (citizens can predict the legal consequences of their behavior).²⁵ This principle is derived from Article 28D paragraph (1) of the 1945 Constitution which guarantees "fair legal certainty for everyone."

The crucial theoretical move this article makes is to distinguish between *formal* legal certainty which corresponds to Fuller's eight requirements and Tamanaha's thin rule-of-law model and *substantive* legal certainty, which additionally requires that law be just, human dignity be protected, and democratic legitimacy be achieved. *Rechtsstaat Pancasila* constitutionally mandates *substantive* legal certainty: Article 28D's guarantee of "fair" certainty cannot be read to exclude its ethical dimension

In Indonesia, legal certainty is realized through the

²⁴Wirsamulia, F. (2019). Penegakan Keadilan dan Kepastian Hukum dalam Negara Hukum Pancasila. Hukumonline.

²⁵Raz, J. (1977). The Rule of Law and Its Virtue. *Law Quarterly Review*, 93, 195–211.

1945 Constitution as the highest constitution that binds all legal products under it, as well as through the hierarchy system of laws and regulations in Law No. 12 of 2011 jo. Law No. 13 of 2022.²⁶ However, the main challenge arises from the inconsistency of local regulations (*Perda*) with central laws, such as the case of the Sharia Regional Regulation in Aceh which is contrary to Article 28E of the 1945 Constitution.²⁷

5. Pancasila Integration and Legal Certainty: A Critical Constitutional Analysis

Pancasila integrates legal certainty with justice through a democratic legislation process based on deliberation and people's participation as mandated by the fourth precept, so that the legal norms formed are expected to be stable while reflecting a sense of justice.²⁴ Law No. 12 of 2011 concerning the Establishment of Laws and Regulations which has been amended by Law No. 13 of 2022 emphasizes in Article 2 that Pancasila is the main source of all sources of state law and in Article 5 regulates the principles of the preparation of laws and regulations,

The “Conditionally Unconstitutional” Doctrine: Emancipatory Judicial Activism or New Uncertainty?

The Constitutional Court's Decision Number 91/PUU-XVIII/2020 on the Job Creation Law declared the law “formally unconstitutional” due to procedural defects in the legislative process specifically, the failure to meet the deliberation requirements of the fourth precept and ordered the legislature to remedy these defects within two years.²⁸ This decision is widely celebrated as an affirmation

²⁶Fathorrahman. (2017). Telaah Hukum tentang Pembatalan Peraturan Daerah. *Jurnal Rechtsens*.

²⁷Fathorrahman. (2017). Telaah Hukum tentang Pembatalan Peraturan Daerah. *Jurnal Rechtsens*.

²⁸Hendrianto, S. (2018). *Law and Politics of Constitutional Courts: Indonesia and the Search for Judicial Heroes*. Abingdon: Routledge, pp. 57–71.

of substantive legal certainty. However, a critical reading reveals a deeper paradox. By introducing the doctrine of “Conditionally Unconstitutional” a status that is neither fully constitutional nor immediately void the Court created a new category of legal uncertainty.²⁹ During the remediation period, the law remained in effect, creating what legal theorists would call a “legal limbo”: citizens and businesses could not be certain whether the law’s provisions were binding, challengeable, or subject to modification. This is not a failure of Pancasila’s normative framework it is a tension inherent in the Court’s attempt to balance substantive justice with formal certainty. The Court’s decision reflects what Hendrianto calls the “heroic judge” model of Indonesian constitutional adjudication a model that prioritizes substantive justice over formal predictability, at the cost of creating new dimensions of uncertainty.

The critical question is whether this form of judicial activism is constitutionally legitimate within the framework of *Rechtsstaat* Pancasila. This article argues that it is but with qualifications. The “Conditionally Unconstitutional” doctrine is legitimate insofar as it operationalizes the fourth precept’s demand for democratic deliberation and the fifth precept’s demand for substantive justice. It is problematic insofar as it creates a period of legal uncertainty that is itself a violation of the legal certainty principle it purports to protect. This paradox is constitutionally inscribed in Pancasila itself, which simultaneously demands formal legality (sila 4), substantive justice (sila 2), and social utility (sila 5).

Regional Regulatory Inconsistency: Technical Failure or Normative Deficit?

The persistent inconsistency between regional regulations and central law illustrated by sharia-nuanced regional regulations in Aceh that potentially conflict with

Article 28E of the 1945 Constitution³⁰ is typically analyzed as a technical legislative problem, solvable through better legal drafting and enhanced supervisory mechanisms. This article argues that this analysis is incomplete. The deeper problem is a normative one: the failure to internalize Pancasila's values at sub-national governance levels reflects a structural deficit in constitutional culture. Fuller's requirement of congruence between official action and declared rule is violated not because regional legislators are ignorant of the law, but because they do not share the constitutional culture that Pancasila demands. This requires not only stronger supervisory mechanisms but also a transformation of legal education, bureaucratic training, and political culture at the regional level. Transformative Constitutionalism demands the active cultivation of a Pancasila-saturated constitutional culture at every level of governance.

Pancasila and Global Constitutionalism: Beyond Exceptionalism

A recurring risk in the Indonesian constitutional literature is what might be called "Pancasila exceptionalism": the claim that Indonesia's legal system is *sui generis* and cannot be evaluated by external standards. This article explicitly rejects this position. Pancasila's distinctiveness lies not in its resistance to comparison but in the specific way it integrates elements that other constitutional traditions treat as separate: divine morality (analogous to natural law traditions), human rights (analogous to liberal constitutionalism), democratic deliberation (analogous to deliberative democracy theory), and social justice (analogous to social democratic constitutionalism).³¹ Positioning Pancasila within the discourse of Transformative Constitutionalism in the

³⁰Cottier, T., & Hertig, M. (2003). The Prospects of 21st Century Constitutionalism. *Max Planck Yearbook of United Nations Law*, 7, 261–328.

Global South³² allows for a more productive comparative engagement. Like the South African Constitution's commitment to transformative socio-economic rights, Pancasila's fifth precept demands active state intervention to realize social justice. These parallels suggest that Pancasila is not an anomaly in global constitutional theory it is a distinctive instance of a broader family of constitutions that reject the thin rule-of-law model in favor of a thicker, more substantive conception of constitutional governance.

6. Structural Challenges and Strategic Reform Proposals

The structural challenges confronting the realization of Rechtsstaat Pancasila's vision of legal certainty are both institutional and normative. Institutionally: (1) persistent inconsistency of regional regulations; (2) political dynamics in legislative processes that prioritize investment interests over constitutional rights; (3) disparity in law enforcement capacity between regions; and (4) limitations of existing supervisory mechanisms. Normatively: (1) incomplete internalization of Pancasila's values at sub-national governance levels; (2) tension between judicial activism and the formal legal certainty principle; (3) risk of Pancasila being invoked as rhetorical cover for policies that contradict its values; and (4) absence of systematic mechanisms for evaluating whether legislation genuinely reflects Pancasila's normative demands.

The main challenge is the conflict of interest in the legislative process that reduces transparency and accountability, as seen in the criticism of the drafting of the Job Creation Law.³³ Within the framework of the Pancasila state of law, this challenge is responded to through strengthening the role of the Constitutional Court as a

³³Suryadi. (2021). Dampak Revisi UU KPK terhadap Kelembagaan KPK. *Jurnal Palar*.

constitutional examiner of the law and strengthening supervisory institutions such as the KPK.³⁴

This article proposes five strategically integrated reforms: (1) expanding the Constitutional Court's authority to include preventive constitutional review of major legislation; (2) real-time digitalization of the National JDIH for accessibility to regional legislators; (3) reforming legal education at all levels to treat Pancasila as an operative legal standard, not a historical artifact; (4) substantively reforming public participation mechanisms through digital platforms for genuine deliberative consensus; and (5) establishing a specialized Task Force for regulatory harmonization with constitutional authority to review and correct regional regulations systematically.

C. Conclusion

Pancasila as the basis of Indonesia's legal state has been proven to effectively integrate the principle of legal certainty through its noble values that are systemic and holistic. This article has argued that *Rechtsstaat* Pancasila constitutes a "thick" rule-of-law model that integrates formal legality, human dignity, democratic deliberation, and social justice into a constitutionally operative normative framework. Against the thin rule-of-law models of Western liberal positivism, Pancasila offers a conception of legal certainty that is simultaneously more demanding and more complex.

The critical analysis of Constitutional Court Decision Number 91/PUU-XVIII/2020 has revealed that the operationalization of this thick rule-of-law model generates inherent tensions: the doctrine of "Conditionally Unconstitutional" is both an affirmation of substantive justice and a source of new legal uncertainty. This paradox is not a failure of Pancasila's normative framework it is an honest reflection of the structural tensions that any thick

rule-of-law model must navigate.

Theoretically, this article has positioned Pancasila within the discourse of Transformative Constitutionalism in the Global South, arguing that it represents a distinctive and theoretically significant instance of constitutionalism that resists both liberal exceptionalism and Asian Values discourse. The practical implication is that Pancasila's normativity must be systematically operationalized through concrete legal obligations, not merely invoked as a philosophical aspiration.

To realize an ideal Pancasila legal state, several strategic steps must be implemented synergistically, starting with the harmonization of laws through strengthened judicial review mechanisms and the establishment of specialized Task Forces to ensure constitutional supremacy at all levels of government.

D. Reference

- Admin KPU Mamberamo Tengah. (2025). *Negara Hukum: Makna, Prinsip, dan Penerapannya di Indonesia*. From https://kab-mamberamotengah.kpu.go.id/blog/read/8470_negara-hukum-makna-prinsip-dan-penerapannya-di-indonesia
- Alvin, S. (2016). *Jokowi Resmi Hapus 3.143 Perda Bermasalah*. From Liputan6: <https://www.liputan6.com/news/read/2530343/jokowi-resmi-hapus-3143-perda-bermasalah>
- Annisa. (2024). *Pokok Pikiran Pembukaan UUD 1945 Beserta Arti Pentingnya*. From Fakultas Hukum UMSU: <https://fahum.umsu.ac.id/pokok-pikiran-pembukaan-uud-1945-beserta-arti-pentingnya/>
- Badan Pembinaan Ideologi Pancasila. (2024). *Pembinaan Ideologi Pancasila dan Arah Kebijakan Pembinaan Ideologi Pancasila*. Jakarta: Badan Pembinaan Ideologi Pancasila.

- Badan Pemeriksa Keuangan Republik Indonesia. (2025). *Negara Hukum: Kepastian, Keadilan, dan Kemanfaatan Hukum dalam Sistem Peradilan Pidana Indonesia*. Kendari: BPK Perwakilan Provinsi Sulawesi Tenggara.
- Badan Setda Kantor Kemendagri (BSKDN). (2015). *Syarat Pendirian Rumah Ibadah Akan Dihapus*. From BSKDN Kemendagri.
- Baxi, U. (2008). *The Future of Human Rights* (3rd ed.). Oxford: Oxford University Press.
- Bell, D. A. (2006). *Beyond Liberal Democracy: Political Thinking for an East Asian Context*. Princeton: Princeton University Press.
- Benda-Beckmann, K. von, & Turner, B. S. (2018). Legal Pluralism, Social Theory, and the State. *Journal of Legal Pluralism*, 50(3), 255–274.
- Bo'a, F. Y. (2018). Pancasila sebagai Sumber Hukum dalam Sistem Hukum Nasional. *Jurnal Konstitusi*, 21-49.
- Cottier, T., & Hertig, M. (2003). The Prospects of 21st Century Constitutionalism. *Max Planck Yearbook of United Nations Law*, 7, 261–328.
- Dwi, A. (2023). *Makna Indonesia sebagai Negara Hukum*. From Pascasarjana Universitas Muhammadiyah Sumatera Utara: <https://pascasarjana.umsu.ac.id/makna-indonesia-sebagai-negara-hukum/>
- Dworkin, R. (1986). *Law's Empire*. Cambridge: Harvard University Press.
- Fahmi, K. (2016). Prinsip Kedaulatan Rakyat dalam Penentuan Sistem Pemilihan Umum Anggota Legislatif. *Jurnal Konstitusi*.
- Fakultas Hukum Universitas Jenderal Soedirman. (2024). *Teori Hukum Pancasila*. Tasikmalaya: CV. Elvaretta Buana.

- Fathorrahman. (2017). Telaah Hukum tentang Pembatalan Peraturan Daerah (PERDA) oleh Pemerintah Pasca Putusan Mahkamah Konstitusi Nomor : 56/PUU-XIV/2016. *JURNAL RECHTENS*.
- Fuller, L. L. (1964). *The Morality of Law*. New Haven: Yale University Press.
- Gaffar, J. M. (2013). Peran Putusan Mahkamah Konstitusi dalam Perlindungan Hak Asasi Manusia Terkait Penyelenggaraan Pemilu. *Jurnal Konstitusi*, 1-24.
- Hendrianto, S. (2018). *Law and Politics of Constitutional Courts: Indonesia and the Search for Judicial Heroes*. Abingdon: Routledge.
- Hidayat, A. (2019). *Negara Hukum Berwatak Pancasila*. Mahkamah Konstitusi RI.
- Hukumonline. (2023). Makna Pasal 29 UUD 1945 tentang Kebebasan Beragama. Jakarta: Pemerintah Republik Indonesia. *Jurnal Kajian Hukum*.
- Klug, H. (2000). *Constituting Democracy: Law, Globalism and South Africa's Political Reconstruction*. Cambridge: Cambridge University Press.
- Konstitusi Republik Indonesia November 25, 2021).
- Latif, Y. (n.d.). *Pancasila sebagai Norma Dasar Negara: Implikasinya terhadap Perumusan Konstitusi*. From bphn.go.id:
https://bphn.go.id/data/documents/yudi_latif_pancasila_sebagai_norma_dasar_negara.pdf
- Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020 tentang Pengujian Formil Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja, 91/PUU-XVIII/2020 (Mahkamah Konstitusi Republik Indonesia 2021).
- Putusan Mahkamah Konstitusi Nomor 97/PUU-XIV/2016, 97/PUU-XIV/2016 (Mahkamah Konstitusi Republik Indonesia 2017).

- Putusan Mahkamah Konstitusi Republik Indonesia, 91/PUU-XVIII/2020 (Konstitusi Republik Indonesia November 25, 2021).
- Putusan Mahkamah Konstitusi, 91/PUU-CXIX/2021 (2021).
- Putusan Mahkamah Konstitusi, 91/PUU-CXIX/2021 (Mahkamah
- Putusan Mahkamah Konstitusi, Nomor 46/PUU-VIII/2010 (Mahkamah Konstitusi Republik Indonesia 2012).
- Raz, J. (1977). *The Rule of Law and Its Virtue. Law Quarterly Review*, 93, 195–211.
- Republik Indonesia. (1945). *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*. Jakarta: Pemerintah Republik Indonesia.
- Republik Indonesia. (2011). *Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan*.
- Sayuti. (2016). *Konsep Rechtsstaat dalam Negara Hukum Indonesia*.
- Shadiqin, M. T. (2020). *Implikasi Putusan Mahkamah Konstitusi Nomor 137/PUU-XIII/2015 dan No. 56/PUU-XIV/2016*
- Suryadi. (2021). *Dampak revisi Undang-Undang KPK terhadap kelembagaan KPK. Jurnal Palar*.
- Tamanaha, B. Z. (2004). *On the Rule of Law: History, Politics, Theory*. Cambridge: Cambridge University Press.
- Terhadap Mekanisme Pengawasan Perda. *Al-Hakam: Islamic Law & Contemporary Issues*, 19-36.
- Tushnet, M. (2008). *Weak Courts, Strong Rights: Judicial Review and Social Welfare Rights in Comparative Constitutional Law*. Princeton: Princeton University Press.
- Wirsamulia, F. (2019). *Penegakan Keadilan dan Kepastian Hukum dalam Negara Hukum Pancasila*. From

Hukumonline:

<https://www.hukumonline.com/berita/a/penegakan-keadilan-dan-kepastian-hukum-dalam-negara-hukum-pancasila-oleh--feri-wirsamulia-lt5d8c7df54556a/?page=all>

Wulandari, T. (2021). *Makna Pasal 28 dalam UUD 1945 untuk Hak Asasi Manusia*. From detikcom: <https://www.detik.com/edu/detikpedia/d-5721614/makna-pasal-28-dalam-uud-1945-untuk-hak-asasi-manusia>

Acknowledgment

The author would like to express the greatest gratitude to Prof. Dr. Martitah, M.Hum., as the lecturer in charge of the Constitutional Law course at the Faculty of Law, Semarang State University, for her invaluable guidance, academic support, and insights provided during the research and drafting of this manuscript.

Funding Information

This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

Conflicting Interest Statement

The author confirms that this research was conducted independently. There are no personal, financial, or professional relationships that could influence the objectivity of this study.

Publishing Ethical and Originality Statement

This work acknowledges the use of generative artificial intelligence tools during its preparation, limited to initial brainstorming and language editing. All substantive analysis, theoretical argumentation, and critical interpretation were developed and verified by the author.

Generative AI Statement

This work acknowledges the use of generative artificial intelligence tools during its preparation. These tools were used only for brainstorming ideas, drafting and revising text, and improving language clarity. The final content, analysis, and interpretation of results were developed and verified by the author. The use of AI did not replace intellectual contribution or compromise the originality and integrity of this work.