



IMPLEMENTATION OF PANCASILA VALUES AS THE BASIS OF THE STATE IN THE FORMATION OF LEGISLATION AND REGULATIONS

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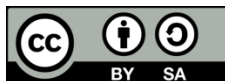
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ABSTRACT

Pancasila as the foundation of the state has a fundamental role in shaping the legal system and legislation in Indonesia. The implementation of Pancasila values in the formation of legislation aims to ensure that every legal product reflects the principles contained in Pancasila, namely Divinity, Humanity, Unity, Democracy, and Social Justice (Rambe, 2019). This study examines how Pancasila is applied in the legislative process, from policy formulation to enactment of laws, and how these values become benchmarks in assessing the legitimacy and justice of law in Indonesia. The results of the study show that the implementation of Pancasila in the formation of legislation provides a strong moral and ethical foundation for every policy issued. The values of Pancasila serve as a guideline to ensure that the laws made are able to reflect the aspirations of the diverse and just Indonesian people. However, in practice, challenges arise in maintaining consistency between the values of Pancasila and the realization of policies that are responsive to social, political, and economic dynamics. In conclusion, although Pancasila has become the main foundation in the legal system, ongoing efforts are needed to improve the integration of these values consistently in every stage of legal formation. Thus, the resulting laws and regulations can better reflect social justice and the aspirations of all Indonesian people, in accordance with the spirit of Pancasila as the foundation of the state.

Keywords: Implementation, State foundation, Legislation.

1. INTRODUCTION

Pancasila, as the foundation of the Republic of Indonesia, plays an important role in guiding the life of the nation and state (Kaderi & Alwi, 2015). The five principles of Pancasila are not only a symbol of national identity, but also serve as guidelines in the formation of applicable norms and regulations. In the context of law, Pancasila functions as a source of values that must be implemented in every regulation drafted by the legislative institution (Indarti, 1998). Therefore, it is important to explore how the values of Pancasila are integrated into the legislative process, as well as the challenges faced in its implementation (Pinasang, 2012). As a basic norm, Pancasila contains principles that reflect the aspirations of the Indonesian people, including justice, humanity, unity, and democracy. These values should be a reference for policy makers in formulating laws that not only meet the legality aspect, but also reflect social justice and protection of human rights. A relevant case example is Law No. 39 of 1999 concerning Human Rights, which reflects an effort to integrate humanitarian values into regulations. However, there is still criticism regarding the implementation of the law, especially in cases of human rights violations that have not been fully resolved (Rambe et al, 2024).

Through a normative approach, this study will examine existing legal documents, such as the 1945 Constitution and various laws that have been enacted, in order to assess the consistency and suitability of the contents of the regulations with the values of Pancasila. By analyzing the contents of these regulations, it is hoped that it can be found whether the values contained in Pancasila are truly actualized in legal practice (Asshiddiqie, 2020). This is important to ensure that every law produced is able to create a just and civilized society.

Furthermore, this study will also identify the challenges and obstacles faced in implementing Pancasila values in the legislative process. Various factors, such as political interests, power dominance, and lack of public participation, often influence the process of forming laws. For example, in the case of the Omnibus Law Bill, there were massive protests from the public who considered that the law did not reflect the principles of deliberation and participation, which are part of the values of Pancasila. By understanding this dynamic, research is expected to provide constructive recommendations to strengthen the application of Pancasila in making regulations in Indonesia (Hamza, 2009). By raising this theme, it is hoped that this research can provide a significant contribution to understanding the importance of Pancasila as a legal basis. The implementation of Pancasila values in the formation of laws and regulations is not only a moral obligation, but also a strategic step to build a legal system that is fair, transparent, and reflects the aspirations of all Indonesian people.

2. RESEARCH METHODE

From the analysis conducted on several cases of legislation, it was found that the implementation of Pancasila values in the formation of laws in Indonesia has significant variations. Through interviews with policy makers and document analysis, it was identified that the values of Pancasila, especially the principles related to justice, humanity, and unity, are not always consistently actualized in the regulations produced. A striking example is Law No. 39 of 1999 concerning Human Rights, which contains the principles of humanity and justice. Although this law aims to protect human rights, its implementation is often hampered by various factors, such as lack of political support and weak law enforcement mechanisms. On the other hand, the case of the Omnibus Law Bill shows protests from the public who consider

that the legislative process does not reflect the principles of deliberation and participation contained in Pancasila, thus creating dissatisfaction among the public

3. RESULT AND ANALYSIS

1. Pancasila as the State Philosophy

In the opening of the 1945 Constitution of the Republic of Indonesia, the fourth paragraph, there is a formulation of Pancasila as the basis of the Indonesian state. The formulation of Pancasila is in positive Indonesian law legally-constitutionally valid, applicable, and binding on all state institutions without exception (Farida, 2016;). The formulation of Pancasila contained in the Opening of the 1945 Constitution of the Republic of Indonesia, where the opening is a high-ranking law that cannot be changed. In positive law, Pancasila as the basis of the Indonesian state is final and binding on all state administrators.

As the basis of the State (ground norm) of the Indonesian nation, Pancasila has been proven to be one of the unifying media in the life of society, nation and state in Indonesia. Through the five principles contained in Pancasila, the foundation of state life in Indonesia becomes strong against threats that come from both outside and from within (Surajiyo, 2018). According to Hans Nawiasky, in a country that is a unity of legal order, there is a highest rule, which is higher than the constitution. Based on this higher rule, the constitution is formed. The highest rule in the unity of the legal order in the country is called *staatsfundamentálnorm*, which for the Indonesian nation is Pancasila. The essence of a *staatsfundamentálnorm* is a condition for the validity of a constitution because it was born first and is so that it is directly based on the historical will of a nation and joint decisions taken by the nation.

2. Implementation of Pancasila Values in Legislation

In fact, the fourth paragraph of the opening of the NKRI Constitution already contains provisions from each Pancasila principle which are then derived in the articles contained in the main body, of course, carrying the spirit contained in the main body, of course, carrying the spirit contained in the material of the 1945 Constitution itself (Prasetyo, 2016).

The basic philosophical formulation of the state or state ideology contained in the Opening of the 1945 Constitution is Pancasila. The formulation of Pancasila can also be called the basic formulation of the legal ideals (*rechitdee*) of the Republic of Indonesia. As the ideals of the state, of course, it must be formulated based on the ideals that existed before this country was founded.

As is known, legal ideals, in addition to having a constitutive function that determines the basis of a law, without which a legal system loses its meaning and significance as law, also have a regulative function that determines whether a positive law is just or unjust. Thus, in terms of Pancasila, it has a constitutive function that determines whether the Indonesian legal system is a correct legal system, and in addition it has a regulative function that determines whether the positive law in force in Indonesia is a just law or not (Syamsudin et al, 2009).

Related to this, it is very relevant to the hierarchy of norms theory which states that every legal norm is considered valid because it is created/made in a manner determined by other norms. So, the hierarchical relationship of these legal norms illustrates that a higher legal norm

is the basis for the validity of the norm that forms the lower norm (Asshiddiqie, 2020). The relationship between norms that regulate the formation of other norms can be presented as a super and subordination relationship. A norm that determines the formation of a superior norm while the norm created according to this relationship is an inferior norm.

In this context, the content of each statutory regulation, the role and philosophical, sociological, and political aspects are very urgent and strategic to complement Hans Kelsen's concept (Yuliandri, 2009).

As a modern state based on law (*rechstaat*) based on the provisions of the 1945 Constitution, Indonesia consciously wants, tries, and strives to achieve its goals. For this reason, modifications need to be made in life and livelihood with development organizers. These social changes are carried out with development organizers, plans, underlying laws, policy regulations that support their implementation. In the context of law, especially in the formation of laws and regulations, Pancasila should be placed in the area of material legal sources from the formation of laws and regulations (Rambe et al, 2023). This is reinforced by the mandate of Article 2 of Law Number 12 of 2011 concerning the Formation of Laws and Regulations which states that "Pancasila is the source of all sources of State law". The placement of Pancasila as the source of all sources of state law is in accordance with the Preamble to the Constitution and the state ideology as well as the philosophical basis of the nation and state so that every material contained in the legislation must not conflict with the values contained in Pancasila.

In principle, there are two views regarding the importance of compiling legislation, namely:

- A. Creating codification for norms and values of life that have settled in society
- B. Creating modifications or changes in the life of society (T Koopmans). According to IC Van der Vles, modification regulations are regulations that aim to change the prevailing legal opinions and legislation that change social relations.

The legal principles above actually function to interpret legal rules and provide guidelines for behavior, although not directly as is the case with legal norms, which contain (are based on) the ideological values of legal order.

The norms and values contained in Pancasila should be elaborated in the form of Articles in every drafting of laws and regulations so that they can reflect the values that live in society itself. It is not our "The Founding Father" who explores the values of Pancasila from the life of society itself through a long process. So that if Pancasila is used as the basis for every process of drafting laws and regulations, it will be easy for every level of society to accept it, because in fact these values are values that live, grow and develop in society itself. The following can be seen the image as referred to above (Indiarti, 2019).

Furthermore, the development of the Indonesian legal system should lead to the ideals of the Indonesian state (*staatside*) which as far as possible must be built in a unique way in the sense of not imitating the individualism-liberalism ideology which has actually given birth to colonialism and imperialism which must be opposed, or the extreme collectivist ideology as shown in practice in the environment of socialist-communist countries. In other words, the spirit underlying the thinking of the founders of the Republic of Indonesia is the spirit of synthesis, the spirit to combine or the spirit to create an understanding based on Pancasila.

If this is done, of course it will cause the law to be valid philosophically, namely that the legal product must reflect the value system and as a means of realizing it in the behavior of society and sociologically as a regulation that reflects the reality that lives in society and if this is effective because the norms and legal values contained in the laws and regulations are made in accordance with the reality that lives in society.

It should be noted that the philosophy or outlook on life of a nation contains nothing other than the moral or ethical values of the nation, morals and ethics basically contain good and bad values. Good values are views and ideals that are upheld. In it there are values of truth, justice, morality, and various other values that are considered good.

The development of Indonesian national law is something that the government must do in order to form a national law that is rooted in all levels of society. The development of Indonesian national law, which is currently heavily influenced by external elements, should as far as possible maintain the material legal sources of Indonesian laws. The development of national law that emphasizes the spirit of Indonesianness and Indonesian taste can only be done with the consensus of all elements of the nation.

CONCLUSION

The implementation of Pancasila values as the basis of the state in the formation of legislation in Indonesia has a very vital role. Pancasila, as the ideological and philosophical foundation of the nation, functions as the main source in determining the direction and substance of every legal policy in Indonesia (Tanya et al, 2015). The process of legislation and the creation of legislation must always be based on the five principles of Pancasila, which include the values of Divinity, Humanity, Unity, Democracy, and Social Justice. This aims to ensure that every legal product produced is able to reflect and uphold the noble values that are characteristic of the Indonesian nation. In the formation of legislation, Pancasila functions as a normative benchmark to assess whether a policy or law is in accordance with national goals and ideals. Every stage of the drafting of legislation, from planning, discussion, to ratification, must consider the values of Pancasila to prevent any deviations that could harm the interests of the people or threaten national unity. Thus, values such as justice, welfare, and respect for human rights become important aspects integrated into every legal policy (Rambe & Sihombing, 2024) The application of Pancasila values also helps in realizing a legal system that is just and in favor of the interests of all Indonesian people. By placing Pancasila as the basis and source of all sources of law, the laws and regulations that are formed will have strong legitimacy and be accepted by the community (Usman, 1993). In addition, this also ensures that the law is in line with national identity and does not conflict with the basic principles of the state. Therefore, the implementation of Pancasila values in the formation of laws and regulations is not only a constitutional obligation, but also a strategic step to maintain the integrity and stability of the state in facing various challenges and dynamics that continue to develop.

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