

Pancasila As the Basis and Source of Law

ABSTRACT

Pancasila serves as the philosophical foundation of the state and the ultimate source of all sources of law in Indonesia, as explicitly stated in the Preamble of the 1945 constitution of the Republic of Indonesia. Its position is not merely symbolic but constitutes a fundamental norm that underpins the formation, implementation, and enforcement of the national legal system. In the context of national legal development, pancasila plays a strategic role as a value-oriented guideline in the formulation of legislation to ensure consistency with the legal ideals of the Indonesian nation. This article aims to provide a comprehensive analysis of the position and function of pancasila as the foundation and source of law and its implications for the Indonesian legal system. The research method employed is normative juridical research using statutory, conceptual, and historical approaches. The findings reveal that the values embodied in Pancasila—namely divinity, humanity, unity, democracy, and social justice—must be reflected in all legal norms and state policies. Pancasila functions as a fundamental norm (ground norm) that grants legitimacy and direction to the validity of all legal norms within the Indonesian legal hierarchy. Furthermore, Pancasila operates as an ethical and moral benchmark for evaluating laws and regulations to prevent deviations from the nation's foundational values. Therefore, strengthening the role of Pancasila as the foundation and source of law is essential in realizing a just, people-oriented legal system capable of responding to contemporary challenges while preserving Indonesia's National identity

Keywords: Pancasila, foundation of the state, source of law, national legal system, legal Ideals

INTRODUCTION

Pancasila is the state philosophy of the Republic of Indonesia and holds fundamental importance in the governance of national and state life. As the foundation of the state, Pancasila serves as the philosophical, ideological, and legal foundation for the formation and implementation of national law.

The values embodied in Pancasila—Belief in One Almighty God, Just and Civilized Humanity, the Unity of Indonesia, Democracy Guided by the Wisdom of Deliberation/Representation, and Social Justice for All Indonesian People—are fundamental values that must be reflected in every legal product. These values serve as normative guidelines in formulating legislation that is not only formal and legal in nature but also contains moral and ethical content. By using

Pancasila as the source of law, national law is expected to reflect the nation's character and ensure the realization of substantive justice in social life. However in the practice of legal administration in Indonesia, various regulations and policies are still found that do not fully reflect the values of Pancasila. This phenomenon is evident in the emergence of regulations that do not favor the interests of the people, weak protection of human rights, and inconsistent and unjust law enforcement. This situation indicates a gap between the ideal values of Pancasila and the reality of legal practice in the field. Therefore, strengthening understanding and implementation is necessary.

All laws and regulations in force in Indonesia must not conflict with the values contained in Pancasila, as Pancasila is the source of all sources of state law. Pancasila's position as a source of law is expressly stated in the Preamble to the 1945 Constitution of the Republic of Indonesia, specifically in the fourth paragraph, which states the foundations of the Indonesian state. This emphasizes that Pancasila functions not only as the nation's outlook on life but also as a basic norm (ground norm) that serves as the primary foundation of the national legal system.¹ Thus, Pancasila serves as a guideline for the formation of just and civilized laws that uphold the values of humanity and unity. Furthermore, Pancasila serves as a source of values in the development of national law (Kaelan, 2016). Each principle contains legal principles that reflect the character of the Indonesian nation, such as the values of divinity, humanity, unity, democracy, and social justice. These values must be reflected in every policy and legal regulation so that the law is not merely formal but also has moral and social legitimacy (Mahfud MD, 2019). According to Dr. Zainudin Hasan (2025) Pancasila as the basis and source of law has a strategic function in shaping law-abiding citizens who possess a Pancasila personality. Laws derived from Pancasila are expected to create social order, protect human rights, and realize social justice for all Indonesians. Therefore understanding Pancasila as the basis and source of law is crucial in strengthening the national legal system and maintaining the integrity of the Unitary State of the Republic of Indonesia.

In his study of Pancasila and citizenship, Dr. Zainudin Hasan emphasized that Pancasila must be understood as a living ideology that remains relevant in

the face of social, political, and legal dynamics. Pancasila should not be viewed as a static doctrine, but rather as a living value that evolves according to the needs of society without losing its fundamental essence. In the legal context, Pancasila serves as an evaluative instrument for legislation and as a guideline for developing citizens' legal awareness. This view emphasizes that strengthening Pancasila as the basis and source of law also has a crucial civic education dimension in shaping citizens who are legally aware and imbued with Pancasila-based character. Furthermore, the challenges of globalization and the development of digital technology have also influenced the national legal system. The influx of global legal values has the potential to influence the character of Indonesian law if not filtered through the values of Pancasila.

In this situation Pancasila acts as a normative filter ensuring that legal developments remain in line with the nation's identity. Therefore, the study of Pancasila as the basis and source of law is increasingly relevant and urgent. Based on this description, it can be concluded that Pancasila holds a highly strategic position in the national legal system. Strengthening Pancasila's role as the basis and source of law is expected to create a legal system that is just, oriented toward the interests of the people, and aligned with national values and the ideals of Indonesian independence.

This article aims to examine in-depth and systematically the position of Pancasila as the foundation of the state and the source of all legal sources in the Indonesian national legal system. This study aims to reaffirm Pancasila's strategic position as a fundamental norm (*grundnorm*) that serves as the philosophical, juridical, and sociological foundation for the formation, implementation, and enforcement of law in Indonesia.

Through a normative and conceptual juridical approach, this article seeks to provide a comprehensive understanding of the function of Pancasila as the nation's legal ideal, inspiring all national laws and regulations and legal policies. Furthermore, this paper aims to analyze the implementation of Pancasila values in the practice of lawmaking and enforcement, particularly in ensuring substantive justice, the protection of human rights, and the balance between legal certainty and legal expediency.

By examining the values of divinity, humanity, unity, democracy, and social justice embodied in Pancasila, this article is expected to demonstrate that Pancasila serves not only as a normative basis but also as an ethical and moral guideline for the implementation of national law. Furthermore, this article aims to identify the various challenges and problems faced in implementing Pancasila values amidst the dynamics of societal development, globalization, technological advances, and the flow of global legal values.

This study is expected to provide an overview of the gap between the ideal values of Pancasila and the reality of legal practice in Indonesia. Ultimately, this writing is expected to provide academic and practical contributions in the form of critical thinking and recommendations in order to strengthen the role of Pancasila as the basis and source of law, so that the national legal system is able to develop responsively to changes in the times without losing the identity and noble values of the Indonesian nation.

RESEARCH METHODS

This research employs a normative juridical research method, namely legal research conducted by examining written legal norms related to Pancasila as the foundation of the state and the source of all legal sources in Indonesia. This approach positions law as a prescriptive and structured system of norms, making it relevant to examining Pancasila's position within the national legal system (Soekanto, 2014).

The approaches used in this research include a statutory approach and a conceptual approach. The statutory approach examines laws and regulations that contain or reflect the values of Pancasila, such as the 1945 Constitution of the Republic of Indonesia and the statutes of state institutions (Marzuki, 2017). Meanwhile, the conceptual approach is used to understand the concept of Pancasila as the philosophical foundation of the state and a source of law from the perspective of legal experts and philosophers of state affairs (Rahardjo, 2014)

RESULT AND DISCUSSION

Scientific journals in the fields of civic education and constitutional law were also used to enrich the analysis of the actualization of Pancasila values in the formation and implementation of law (Hasan, 2020). Tertiary legal materials such as legal dictionaries and encyclopedias were used to clarify conceptual terms related to Pancasila and law (Mertokusumo, 2016). The legal material collection technique was conducted through library research, which involved inventorying, reviewing, and analyzing various literature relevant to the research focus (Sunggono, 2016). Next the collected legal materials were analyzed using qualitative analysis methods, namely by systematically describing and interpreting the data to draw argumentative and normative conclusions (Moleong, 2018).

All collected legal materials were then analyzed qualitatively using descriptive-analytical analysis methods. This analysis aimed to systematically describe the position of Pancasila as the basis and source of law and to examine its relevance in the formation and enforcement of law in Indonesia. The results of this analysis are then used to draw deductive conclusions, from the general principles of Pancasila to their application in the national legal system.

The analysis is conducted by examining the relationship between Pancasila values and positive legal norms, thus understanding Pancasila's role as a philosophical, juridical, and sociological foundation in the formation of national law (Kaelan, 2013). Thus this research is expected to provide a comprehensive understanding of Pancasila's strategic position as the basis and source of law in the Indonesian constitutional system (Notonagoro, 1984) The research results are then presented descriptively and analytically, describing the existing normative conditions and providing a critical analysis of the implementation of Pancasila values in the national legal system (Mahfud MD, 2017)

CONCLUSION

Based on the results of the studies and analyses conducted, it can be concluded that Pancasila holds a fundamental and strategic position in the Indonesian state and legal system. Pancasila not only serves as the foundation of the state but also as the source of all legal sources, serving as the primary guideline for the formation, implementation, and enforcement of national law. This position is explicitly reflected in the Preamble to the 1945 Constitution of the Republic of Indonesia, which positions Pancasila as the philosophical and ideological foundation of the state. As the foundation of the state, Pancasila plays a role in determining the direction and objectives of national and state life. Every policy and legal product produced by state institutions must be oriented towards the noble values of Pancasila: Belief in One Almighty God, Just and Civilized Humanity, the Unity of Indonesia, Democracy Guided by the Wisdom of Deliberation/Representation, and Social Justice for All Indonesian People. Thus, Pancasila serves as a normative measure for assessing whether a law or regulation reflects justice, humanity, and the interests of the people as a whole. In its position as a source of law, Pancasila serves as a source of inspiration, values, and basic principles for the formation of positive law in Indonesia.

All laws and regulations from statutes to their implementing regulations, must be derived from and must not conflict with the values of Pancasila. This demonstrates that Pancasila is legally binding, so that violations of Pancasila values are essentially violations of the constitution and legal ideals of the Indonesian nation. This view aligns with the thinking of Dr. Zainudin Hasan, who emphasized that Pancasila is the primary guideline in legal and civic life. According to him, Pancasila is not merely a symbol or ideological slogan, but must be concretely actualized in legal and governmental practices. Actualizing Pancasila values in law will give birth to a legal system with Indonesian characteristics, namely law based on religious values, humanity, democracy, unity, and social justice. Furthermore, this study shows that strengthening Pancasila as the basis and source of law also has important implications for education, particularly Pancasila and civic education. Civics education plays a strategic role in instilling legal awareness and constitutional understanding in

citizens. Through this education, the values of Pancasila can be internalized, thus developing law-abiding citizens with a national identity and moral and social responsibility in their social, national, and state lives. Therefore, it can be concluded that the success of national legal development depends heavily on the consistent application of Pancasila values in every aspect of state administration. Pancasila's position as the basis and source of law must be continuously maintained and strengthened to ensure that the national legal system does not lose its direction, identity, and primary purpose: realizing social justice and prosperity for all Indonesian people.

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