

## PANCASILA AS A PARADIGM FOR THE DEVELOPMENT OF LEGAL SCIENCE

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### ABSTRACT

This research explores the role and relevance of Pancasila and the 1945 Constitution in facing the challenges of globalization and the multidimensional crisis in Indonesia. Using qualitative methods, this study highlights the need for legal reform to follow the paradigm of legal development, with the main question of whether Pancasila can be the main foundation of legal development. The research findings show that there is disorientation in applying Pancasila values, but Pancasila-based education strategies can be an effective solution. Challenges faced include political and ideological barriers, but there are opportunities to increase awareness and integration of Pancasila values in legal education and practice. This research confirms that Pancasila as a paradigm for the development of legal science plays an important role in shaping the character of citizens, ensuring justice and welfare in accordance with the 1945 Constitution. The results emphasize the need for a comprehensive approach to legal education that integrates Pancasila values, as well as cooperation between legal practitioners, policymakers, and civil society. The integration of Pancasila values is considered key to ensuring that the law reflects the nation's identity and acts as an instrument of inclusive and equitable development. as for the purpose of this study aims to analyze how the two principles can be used as a foundation in dealing with changes and resolutions.

**Keyword:** Pancasila; Paradigm; Development of Legal Science

### Introduction

The history of struggle and constitutional life has proven that Pancasila and the 1945 Constitution are the best choice for us in organizing the unitary state of the Republic of Indonesia. Likewise, in welcoming the growth, our needs, and the development of the world where human rights have also been covered in the 1945 Constitution and further legislation in its implementation. The rights of a nation in the implementation of Indonesian human rights are placed within the framework of the nation's outlook on life culture and legal ideals. If we look at the actual situation and conditions today, it appears that the life of society, nation, and state based on Pancasila and the 1945 Constitution, is facing a severe ordeal, namely a multi-dimensional crisis in all aspects of national life. These situations and conditions are caused by globalization which can affect the

mindset, attitude, and action patterns of the community so that it will affect the mental and spiritual condition of the Indonesian nation.

Globalization is characterized by the strong influence of international community institutions and developed countries that participate in regulating politics, economy, social culture, and global defense and security (Pahlevi, 2017); (Rahman, SH, & Baso Madiung, 2017). This condition will foster various conflicts of interest, both between developed and developing countries, between developing countries and international institutions, and between developing countries. In addition, global issues including democratization of human rights and the environment also affect the national situation.

Globalization, which is also marked by the rapid development of science and technology, especially in the fields of information, communication, and transportation, makes the world transparent as if it were a village without knowing national borders (GINTING, 2023); (Rahmawati Arofah & Sri Gunarsih, 2019).

Movements and changes in one particular field of science will also affect other sciences. If we state that the frontier of science is always changing, the wave of change will sooner or later also hit the science of law. The crucial thing here is whether legal scientists realize the situation or not. If they do not realize it, then changes in one field of science will simply pass by. Legal science becomes a closed and isolated science. This situation does not raise the dignity of legal science as a science.

In line with globalization which has an impact on the multi-dimensional crisis, it has led to reform in Indonesia where the sector that is considered the most severe and needs to be sponsored is the legal sector. The people's demand for reform is a necessity because the reform process that reorganizes is impossible without making changes to the laws and regulations (Rahmawati Arofah & Sri Gunarsih, 2019). Legal products, both material, and enforcement, are felt to be getting away from human values, populism, and justice. The legal subsystem seems unable to protect the interests of the community and what applies is only imperative for government administrators (Harahap, Ummah, Rohanawati, & Mardhatillah, 2019).

Considering Pancasila as a system of philosophy and at the same time as a source of Indonesian legal order, all legal issues should be returned to the noble values of Pancasila as a source of law.

The research objective of this study is to explore the role of Pancasila and the 1945 Constitution in facing the challenges of globalization and the multi-dimensional crisis in Indonesia, with a focus on the legal aspect. The research aims to analyze how the two principles can be used as a foundation in facing changes and solving legal problems faced by the country.

The benefit of this research is to provide a deeper understanding of the relevance of the values of Pancasila and the 1945 Constitution in the context of globalization and multi-dimensional crises. Thus, this research is expected to provide a more comprehensive view in formulating legal policies that pay attention to human values, populism, and justice, and reflect the identity and character of the Indonesian nation. This research is also expected to contribute to identifying and implementing necessary reforms in the Indonesian legal system so that it can be more effective in safeguarding the interests of society and ensuring the protection of human rights.

## Research Methods

The research method used to answer this problem is the qualitative research method. This method will allow researchers to explore a deep understanding of the thoughts and views of legal experts related to the paradigm of legal science development and the role of Pancasila in that regard. By conducting interviews and analyzing literature, the researcher can explore legal scholars' awareness of the changing legal landscape and the potential isolation of legal science. In addition, the researcher can investigate the impact of globalization on the legal sector and the need for legal reform in Indonesia. This method will enable the researcher to gather rich and detailed insights from legal scholars, examining their perspectives on the changing paradigm of legal science and the role of Pancasila in guiding the development of legal science. The findings of this qualitative research will provide a deeper understanding of how legal scholars view the majesty of legal science and its role in the current era.

## Results And Discussion

### Results

Through this research, it was found that the respondents believe that there is a disorientation in applying the values of Pancasila as the basis of the Unitary State of the Republic of Indonesia as much as 80%. In addition, the results also show that the Pancasila-based systemic and cultural ethics education model developed through interrelated and facilitated inputs, processes, outputs, and feedback is an effective strategy for instilling Pancasila values in elementary school students.

The research also provides insights into the challenges of aligning the legal system with the principles of Pancasila. This includes the need for comprehensive legal education and training that includes ethical values and a deep understanding of Pancasila. This research shows that Pancasila plays an important role in shaping the development of legal science. The researcher also found that there are potential obstacles in implementing legal reforms that are aligned with the precepts of Pancasila, such as political and ideological obstacles. However, there are also opportunities for progress, such as raising awareness and advocating for the integration of Pancasila in legal education and practice.

Therefore, it is important to engage legal practitioners, policymakers and civil society members in discussion and collaboration to ensure that the law reflects the values of Pancasila and advances justice and welfare in line with the 1945 Constitution. The research findings indicate the need for a comprehensive approach to legal education that integrates the principles of Pancasila. This includes incorporating ethical values and providing an in-depth understanding of Pancasila in the curriculum and legal training programs. This approach will assist in developing law graduates who not only have strong legal knowledge and skills but also have a deep understanding of the values and principles of Pancasila. Therefore, Pancasila becomes a paradigm for the development of legal science and plays an important role in shaping the character of citizens. Therefore, Pancasila becomes a paradigm for the development of legal science and plays an important role in shaping the character of citizens.

## Discussion

Philosophically, the Indonesian nation before establishing the state was a divine and humanitarian nation, this is based on the objective fact that humans are creatures of God Almighty (NURHAKIM, 2018); (Syaifudin, 2019). The absolute requirement for a state is the existence of unity which is realized as the people (is the main element of the state) so that philosophically the state is united and populist, consequently the people are the antalogical basis of democracy, because the people are the origin of state power. On the basis of this philosophical understanding, in state life, the values of Pancasila are the basis of state philosophy. Consequently, every aspect of state administration must be based on the values of Pancasila, including the system of laws and regulations in Indonesia (Amri, 2023); (Wahyuningsih, 2014).

The antalogical basis of democracy that places the people as the origin of the state must have implications for the preparation of legal products that have a democratic character regarding the characteristics of Afan Gaffar's legal products in the politics of national legal development. Muqoddas et al, relate it to the type of regime, in the democratic Regime type the characteristics of legal products are "Populist, Progressive, Limited, Interpretation", while the mechanism is carried out in a pluralistic/competitive manner. For non-democratic Regime types, the characteristics of legal products are Elitist, Conservative, and Open to Interpretation, while the mechanism is carried out in a Centralistic/non-competitive manner.

We must distinguish the concept of democracy, recruiting Western democracy which is individualistic and liberalistic with Pancasila which has socialistic nuances, this affects the style of law in the formulation of laws, for example in the Basic Agrarian Law. The notion of property rights in the Basic Agrarian Law is recognized as the strongest and fullest right on the other hand, property rights function socially.

Pancasila as a philosophical system is placed as the philosophy of life of the Indonesian nation and at the same time as the basis of the state the values contained in it will become the moral basis and at the same time the center of the regulation of Indonesian human life (Achadi, 2020); (Rahayu, 2017). Law as part of existing social norms cannot be separated in its preparation and formation from the values contained in each principle contained in Pancasila, so that there is harmony between Pancasila as a source of law and legal norms as its actualization.

The acceptance of Pancasila as a source of law can be in line with legal thought and theory, among others:

The theory of law put forward by Hans Kelsen with his *Stufenbau des recht* "law is hierarchical" stratified, where the lower level of law must not conflict with the higher level of law. The highest level of law is the Grund Norm which is none other than the Social Foundations of law for the Indonesian nation, none other than Pancasila.

The historical school, studied by Carl von Savigny, states that "the law is not made, but grows and develops together with society. (Volksgeist). The Utility School, from Jeremy Bentham, the conception "the law must be beneficial to society, to achieve a happy life". The Sociological School of Jurisprudence, from Eugen Ehrlich whose concept is "the law made must be by the law that lives in society" (living law).

From the various theories and thoughts mentioned, it can be seen how tight the relationship between law on the one hand and social values on the other hand, on the one hand, the law must be sourced and based on social values/morals on the other hand social values must receive legal protection. The interrelationship further clarifies Pancasila as the crystallization of Social Values. Not only does it function as a source of law but at the same time it also becomes an actual legal system according to the development of society at its time.

Since Indonesia was not yet independent, it has been recognized that the Indonesian nation has its own laws and this was recognized by Van Vollenhoven, ter Haar and Logeman who were of the view that "the Indonesian nation is the only nation that has its own laws in accordance with its personality" because of this, Van Vollenhoven and his students tried to prevent the destruction of customary law by the influence of Western thought.

In line with Van Vollenhoven's thinking, the legal policy applied in the Dutch East Indies at that time was the issuance of the provisions of articles 131 IS and 163 IS which classified the population of the Dutch East Indies into three categories with each different law, for the European group subject to *Burgerlijk Wet boek* (BW), the Foreign Eastern group is subject to its native law; and as BW the Bumi Putra population is subject to Customary law.

This kind of population classification cannot be separated from certain motivations and political goals to place the indigenous population / Bumi Putra at a lower stratum, but on the other hand it is a form of recognition of the existence of the original law of Bumi Putra, namely Customary law which is allowed to live according to the personality of the Indonesian nation. In its development after Indonesia's independence, customary law was still recognized as one of the sources in the preparation of the codification and unification of Indonesian National law. Pancasila as a legal ideal has a depth of meaning in its content.

describes the purpose and function of modern law as stated in MPRS Decree no. XX/MPRS/1966 jo MPR Decree No. V/MPR/1973 and MPR Decree No. IX/MPR/1978. It is explained that the source of legal order in the Republic of Indonesia is the view of life, awareness and ideals of law and moral ideals which include the psychological atmosphere and character of the Indonesian nation. It is further said that these ideals include ideals regarding independence, individuals, national independence, humanity, justice, social, national and moral peace, political ideals regarding the nature, form and purpose of the State, moral ideals regarding social and religious life as an embodiment of human conscience (Darmodihardjo, 1980; 24).

Regarding the purpose of the State as stated in the Preamble of the 1945 Constitution, the fourth paragraph is to form an Indonesian State Government and to advance the general welfare, educate the nation's life and participate in implementing world order based on independence, lasting peace and social justice (Achadi, 2020); (Amri, 2023); (Rahayu, 2017).

The moral ideals of Pancasila with the state goals to be realized as a welfare state are in line with the goals and functions of modern law which not only prioritizes order

and justice but also places the law to function as a reform to realize (Achmad Rifai, 2020) (Sh, 2023).

Regarding the function of law as a means of development or means of community renewal according to Muchtar Kusumaatmadja, it is based on the assumption that the existence of order and order in development or renewal efforts is something that is desired or even considered (absolutely) necessary. The assumption contained in the conception of law as a means of renewal is that the law in the sense of rules or legal regulations can indeed function as a tool (regulator) or means of development in the sense of regulating the direction of human activities in the direction desired by development or renewal. Both of these functions are expected to be carried out by law in addition to its traditional function 'yes' to ensure certainty and order.

The function of law as a means of reforming society must be able to be played correctly in delivering reform in the field of law which requires so many changes in legal norms, law enforcement and legal culture.

The implementation of law during the reform period must truly place the supremacy of law in realizing a democratic state where the implementation of law must be able to realize guarantees for the realization of justice, equality before the law and the implementation of laws that are truly clean from KKN.

In today's legal reform in addition to Pancasila as a paradigm for legal reform which is a source of norms and a source of value, there are main elements that are no less important, namely the empirical reality that exists in society, because society is dynamic both regarding its aspirations, as well as civilization and advances in science and technology. then changes and legal reform must be able to accommodate them in legal norms.

The formulation of legal norms should be based on formal legal sources, which are viewed from the form and procedure for its preparation, as well as based on material law, which is a legal source that determines the material or content of a legal norm.

Regarding the source of material law in our passive law is none other than the values of regius, moral humanity as contained in Pancasila, then the law derived from religion (Islam) has the same place as a source in the preparation of positive law in Indonesia in line with other sources of law. This is what distinguishes Western law from the law derived from Pancasila.

In Western legal thought, the law is something independent, therefore it must be completely detached from any factor including religion. Such thinking is a result of 17th-century rationalism and 18th-century Aufklarung which have recognized the droit divin of kings and have negated the legal power of the Gospel. Since then God has been excluded from all areas of law, all laws have become human laws. Rationalism in the West has also given birth to a rational concept of modern law, which is secular, therefore the substance of modern law is completely separated from religious and ethical considerations. In contrast to the concept of the great rational thinkers, law according to the concept of Pancasila positive law must be measured by the rules that come from God (God's law), with humanity and justice (Kodrat law), the state of goodness (Ethical law) with the principles of Pancasila.

## Conclusions

Pancasila is not only a philosophical system that describes the philosophy of life of the Indonesian people, but also a paradigm in the development of legal science in Indonesia. As a Ground Norm, Pancasila is the main source in the preparation of positive law in this country. The distinctiveness of Indonesian positive law derived from Pancasila lies in the inclusion of divine values and religiosity, which distinguishes it from Western positive law which tends to be secular.

In the context of legal reform, it is important to consider the values of Pancasila as the main guideline. Legal changes made must be in line with these values, considering Pancasila as the source of all sources of law in Indonesia. Thus, the harmony between positive law and Pancasila values will lead to a legal system that is more in line with the character and identity of the Indonesian nation.

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