

THE CONSTRUCTION OF NATIONAL LEGAL SYSTEMS FROM PANCASILA'S
PERSPECTIVE

PEMBANGUNAN SISTEM HUKUM NASIONAL DALAM PERSPEKTIF PANCASILA

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Abstract: this study aimed to analyze Pancasila as the source of all sources of law and the actualization of Pancasila in constructing the national legal system. The type of research was normative legal research with a statutory and conceptual approach. The researchers did library research techniques as secondary data sources. This study analyzed qualitatively juridically. The study results showed that the formulation of laws in every political stage of legal reform should follow the values contained in Pancasila as the source of all sources of law. The formation or renewal of norms would have implications for interests and impact people's lives or the construction of national and community life. In the development of law, Pancasila was a philosophical foundation, namely the view of life, awareness, and legal ideals of the Indonesian nation. The values of divinity, humanity, unity, democracy, and justice should be actualized into the legal substance, legal structure, and legal culture that would be built.

Abstrak: kajian ini bertujuan untuk menganalisis Pancasila sebagai sumber segala sumber hukum dan aktualisasi Pancasila dalam konstruksi sistem hukum nasional. Jenis penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan dan pendekatan konseptual. Sumber data sekunder diperoleh menggunakan teknik studi kepustakaan dan dianalisis secara yuridis kualitatif. Hasil kajian menunjukkan bahwa penyusunan undang-undang dalam setiap tahapan politik reformasi hukum harus mengikuti nilai-nilai yang terkandung dalam Pancasila sebagai sumber segala sumber hukum. Pembentukan atau pembaharuan norma akan berimplikasi terhadap kepentingan-kepentingan dan berdampak terhadap kehidupan masyarakat atau dalam konstruksi kehidupan berbangsa dan bermasyarakat. Pancasila dalam pembangunan hukum merupakan landasan filosofis yakni pandangan hidup, kesadaran, dan cita-cita hukum bangsa Indonesia. Nilai-nilai ketuhanan, kemanusiaan, persatuan, demokrasi dan keadilan harus teraktualisasi ke dalam substansi hukum, struktur hukum, dan budaya hukum yang akan dibangun.

INTRODUCTION

Sustainable legal development is a necessity that must be done by a nation in following the development of community life including the legal development. The study of legal reform

is a regenerating study (Kaelan, 2002). Law as a servant of the needs of society must be renewed so that it is actual with the needs of the people it serves. Therefore, the law is always in the process of becoming because the law is

moving. Legal development in implementation a guideline is needed so that legal development can support the achievement of national goals.

The reform of the national legal system has been manifested in the values contained in Pancasila as a way of life of the Indonesian people and as well the source of all sources of Indonesian state law. Source of law in essence it is a place to find and explore the law itself. The existence of a source of law as a place to explore and find law in a society and a state, resulting in law having its own order. The legal repertoire in the modern and contemporary era is strongly influenced by legal theory regarding basic norms and order of norms (Prasetyo & Barkatullah, 2014). Norms whose validity cannot be obtained from other higher norms are called basic norms.

The basic norm which is the main source of this is the binding between all the different norms that form a norm order. Norm is included in the system of a norm into a certain normative order and can be tested only by confirming that the norm derives its validity from the basic norms that make up the norm (Kelsen, 2014). All norms whose validity can be traced to the same basic norm form a norm system or an order of norms. Based on the meaning of these basic norms, then Pancasila is the basic norm that induces all kinds of norms in the norm system in Indonesia.

Pancasila aims to clarify the position of basic norms in the legal system of a country. The norms that determine other norms are higher norms, while the norms formed according to this regulation are lower norms. The *lex superior derogat legi inferiori* principle applies, namely laws with a higher degree overriding laws with lower degrees. Basic norms on the theory of norm order can be understood if the state is at the highest peak. The consequence of this puts Pancasila into an orderly source of law or better known as the source of all sources of law (Putra, 2015). Therefore, Pancasila as the basic norm is at the top of the pyramid of norms.

Pancasila as a source of law that has juridical legitimacy is not able to guarantee legal certainty. The existence of Pancasila as the source of all sources of law does not have an imperative element or binding power in the legislative hierarchy (Thotowi, 2016). This gives rise to disharmony between laws

and regulations. Pancasila should be used as the basis of common life for the very diverse Indonesian nation in order to remain bound as a single nation, and related to legislators in every political stage of legal reform. Pancasila is the source, foundation, norm, and provides constitutive and regulatory functions in the preparation of all state legal products (Sumaryati & Sukmayadi, 2021). Therefore, it has become a necessity in the construction of a national legal system to inspire the values contained in Pancasila.

Law enforcement in the national legal system in fact faces various serious problems that attract public attention. The formation and enforcement of laws in Indonesia is not able to realize justice for the community (Erfandi, 2016). Laws are made and enforced as if they have lost their lives and easily inserted by momentary interests which are contrary to the ideals and objectives of the law based on Pancasila values. Laws which are the result of legislative products have not fully become normative powers that protect and protect the interests of the people. Legal development must always be adjusted to the dynamics of life.

Pancasila has not been fully positioned as a legal ideal that directs a regulation in Indonesia to substantially fulfill justice. This is because basically legal development always follows the development of society itself. Talking about justice nowadays, of course, things that are getting harder for justice seekers are caused by legal products that are lacking in the true substance of justice (Arief & Tanya, 2009). Therefore, Pancasila must really be applied as a guide in the construction of the legal system in Indonesia. Based on the explanation of the problems described above, this study will discuss (1) Pancasila as the source of all sources of law, and (2) the actualization of Pancasila in the construction of the national legal system.

METHODS

This study uses normative legal research or normative juridical. The use of this type of research is based on considerations to study rules or rules (Soekanto, 2014). This study uses a statute approach, and a conceptual approach. The statutory approach is used by the author to study or examine all regulations related to the initiation of the formation and implementation

of laws against the construction of the national legal system in the perspective of Pancasila. The conceptual approach used in this study is to examine the doctrine, principles, and concepts in the science of law associated with legal issues which are the main problems in the construction of the national legal system in the perspective of Pancasila. Primary and secondary data obtained from the results of literature studies. The data obtained were analyzed qualitatively juridically to describe the conceptions and theories used.

RESULTS AND DISCUSSION

Pancasila as A Source of All Sources of Law

The source of law is essentially a place to find and explore the law itself. Legal sources can be divided into material sources and formal sources. The source of material law is the place where the legal material is taken. These sources of material law are factors that help form laws such as social relations, political power, political situations, socioeconomic conditions, traditions, international developments, or geographical conditions. In contrast to formal legal source as a place or source of law from which a regulation obtains legal force related to the form or method that causes the formal regulation to take effect (Mertokusumo, 2010). Material and formal sources of law have different meanings when viewed from the Pancasila ideology.

Pancasila when viewed from the types of legal sources included as a material source of law while those that are formal are statutory regulations, international agreements, jurisprudence and customs. Pancasila as a source of material law is determined by the content or weight of the material contained in values. There are three qualities of Pancasila material, namely the content of Pancasila is the philosophical content of the Indonesian people, the content of Pancasila as a national legal identity, as well as Pancasila does not determine orders, prohibitions and sanctions but only determines the fundamental principles for the formation of law (Mertokusumo, 2010). Based on these three material qualities, Pancasila is the source of material law.

Source of law becomes a place to explore and find law in a society and a state, resulting in law having its own order. The realm of law in the modern and contemporary era is strongly influenced by Hans Kelsen's legal theory regarding

basic norms and order of norms. Norms whose validity cannot be obtained from other higher norms are called basic norms (Kelsen, 2014). All norms whose validity can be traced to the same basic norm form a norm system or an order of norms. This shows that a norm can be tested if it obtains its validity from the basic norms.

Pancasila when viewed from the meaning of these basic norms is the basic norm that embodies all kinds of norms in the norm system in Indonesia. The position of basic norms in the legal system of a country will be explained through a hierarchical relationship pattern (Prasetyo, 2014). The norms that determine other norms are the higher norms, while the norms formed according to this regulation are the lower ones. Based on the theory of norm order, it can be understood that the basic norms or fundamental norms of the state are at the highest peak. Therefore, Pancasila as the basic norm is at the top of the pyramid of norms. The consequence of this puts Pancasila into an orderly source of law or better known as the source of all sources of law.

Pancasila has a juridical basis through the MPR Decree (TAP MPR) Number XX/MPRS/1966 concerning the DPR-GR Memorandum regarding the Sources of Order of Law of the Republic of Indonesia and Order of the Legislation of the Republic of Indonesia. The function of Pancasila as the source of all sources of law means that Pancasila has the position of Indonesian legal ideology, the set of values that must lie behind the entirety of Indonesian law, the principles that must be followed as instructions in making a choice of law in Indonesia, as well as the statement of the psychological values, law, and desires of the Indonesian people (Rindjin, 2009). Pancasila as the source of all sources of law is intended as the source of orderly law in the Indonesian state.

Article 1 of MPR Decree Number III/MPR/2000 concerning Sources of Law and Order and Legislation explains the source of the national basic law is Pancasila as stated in the Preamble to the 1945 Constitution. The TAP MPR regulation makes it clear that the source of law in the legal system in Indonesia is a place to find and explore the law in the form of written sources and unwritten sources. Pancasila is the main reference for making all kinds of laws and regulations. Article 2 of Law

Number 10 of 2004 concerning the Formation of Legislative Regulations which were later replaced by Law Number 12 of 2011 confirms that Pancasila has the position as source of all sources of state law. The existence of Pancasila is a supreme norm in the Indonesian legal system, so that it implies that Pancasila is a view of life, awareness and legal ideals, and moral ideals of the nation which are legally legitimate.

Pancasila is the general acceptance of the same philosophy of government from the constitution. Pancasila is the basis of constitutional norms and must serve as a guideline and orientation in interpreting constitutional norms (Mahmodin, 2009). All forms of interpretation whether in the formulation of juridical norms or when juridical norms have been successfully formed, still refer to it in the constitution. This is because this constitutional building contains the values of Pancasila. The Indonesian people also make Pancasila a legal ideal or guideline in all activities, providing the contents of every statutory regulation, and a framework that limits the space for movement of the contents of the legislation.

The political practice of forming or reforming the law that comes out may not conflict with the values of Pancasila. The values contained in Pancasila are so important in the construction of the national legal system. Therefore, it is a very serious mistake when the politics of legal reform does not make Pancasila a source of reference in the formation of legal products in Indonesia (Erfandi, 2016). The values of Pancasila in it contain the doctrines of divinity, humanity, unity, democracy, as well as justice which teaches the enforcement of the attitudes and behavior of the nation and state. Regarding the formation or renewal of norms that are not in accordance with the values of Pancasila, it will have implications for interests and can have an impact on people's lives or in the construction of the life of the nation and society.

Pancasila is the basis of the state and as a national ideology is the struggle of founding fathers. Because of that, we should also feel indebted to the founders of this nation and state, which further need and must be paid for by carrying out the state dharma and religious dharma (Junaedi, 2019). Pancasila is the cultural work of the Indonesian nation wholly and completely, which is directly related to

its nature, nature, and nature as a complete human being as caliph on earth. Indonesian society cannot be separated from human nature and nature as taught in the Pancasila ideology, because it has universal values. Ontologically Pancasila is a study of the Indonesian nation as a whole (Triyanti, 2019). Pancasila is an ideal and fundamental view of life that guides how humans realize their nature, natural position, nature, and nature as complete human beings on this earth.

Philosophical view needs to be upheld in the context of socializing the values of Pancasila. Socializing the values of Pancasila is also important to do with a philosophy of knowledge approach (Dewantara et al., 2019). Making Pancasila the basis of the state and national ideology is a noble agreement based on a basic and deep reflection on the essence of Indonesian people (Amarini, 2020). Pancasila as the basis of the Unitary State of the Republic of Indonesia and the national ideology of the Indonesian nation is the agreement of the founding fathers of the nation that must be inspired by future generations.

The state is obliged to guarantee social justice for all its people. The state has the right to manage natural resources as much as possible for the prosperity of the people and vice versa the people are obliged to fulfill the state dharma (Amir, 2013). The life of the nation and state must use the principles of harmony and balance (Sudrajat, 2018). Indonesian society has an obligation as a state that regulates itself to carry out its religious dharma, while at the same time trying to cultivate nature for the welfare and prosperity of the people (Latief et al., 2018). Individuals and groups get their rights from the state (Anam, 2017). Pancasila views that to realize human nature and nature, it is necessary to develop a knowledge system that is relevant to the multiple intelligence system (Kusnadi, Gandryani, & Purwaningtyas, 2021). This is actually the most valuable lesson in democracy based on the principle of *Bhinneka Tunggal Ika*.

Disseminating the values of Pancasila in order to build the nation's character needs to pay attention to philosophical views. Education in order to build national character is not enough to only build intellectual brain intelligence, but it must also be synergized with building physical, emotional, intellectual, social, moral

and spiritual intelligence (Rogers, Siregar, & Siregar, 2020). Indonesian people must think and act harmoniously and balanced. The community must have a noble national character in order to build the nation's civilization. The national character in question is that which has formed the personality of Pancasila (Raihanah & Hasanah, 2019). Character as a personality factor cannot be separated from cultural factors with the character of Pancasila.

The cultural character of the Indonesian nation is based on the four pillars of the life of the Indonesian nation and state, namely Pancasila, the 1945 Constitution, *Bhinneka Tunggal Ika*, and the Unitary State of the Republic of Indonesia. National culture is also based on local cultural wisdom that lives in the lives of multicultural Indonesian people in the form of social capital that grows and develops into a rainbow of national cultural wealth (Intan, 2006). Local wisdom is firmly attached to everyone's heart, both in the pattern of traditional village life and community life (Shofiana, 2014). A society with such wisdom and values shows that recognition as an Indonesian nation also plays a significant role in contributing to the development of national cultural wealth and the development of the character of the Indonesian nation.

The nation's personality can be described in the character of life that has the ability to think globally, act locally, be nationally committed, and respect multiculturalism. The character of ability or competence is not something that must be contradicted with each other, but must be integrated and empowered so that it can become social, cultural, symbolic, and strength capital for the development of a nation with a dynamic character (Gunawan, 2019). Society in the perspective of holism philosophy tends not to separate a person from his social context, even feel comfortable and comfortable when one is with the natural environment and the Creator. Recognition and respect for oneself as a social being, is only part of the theocentric concept that commands humans to do good to other humans. Everyone wants relations with other parties to take place in a harmonious atmosphere.

The integration and synergy of these abilities and personalities have been able to shape and become characters that give Indonesian people

a national identity that can be described in the appreciation of values. The national personality are manifested in the attitudes and behavior of the Indonesian people including faith and devotion to God Almighty, freedom and tolerance, and respect for diversity. The human character and the Indonesian people also highlight human brotherhood, love of peace, respect for science and technology, respect for intelligence, creativity and innovation, achievement motivation, work ethic, independence and entrepreneurship, discipline, fair competition, and cooperation for peace (Jannah & Fahlevi, 2018). The integration and synergy of these abilities and personalities have been able to shape and become a character that gives the Indonesian nation identity which can be described in the appreciation of values.

Pancasila Actualization in the Construction of the National Legal System

Actualization means realizing Pancasila as the foundation in the construction of a national legal system. Pancasila values for the Indonesian people are universal and permanent. These values are arranged hierarchically and contain qualities that must be achieved by the Indonesian people which will be realized into concrete realities in social life (Kaelan, 2010). A national legal system based on Pancasila values in practice will achieve justice as the ultimate goal of law.

Pancasila values in the construction of the Indonesian national legal system must be viewed as a value system because they are in the form of one unit. The Almighty Divine Precepts contains the value that everything related to the implementation and administration of the state must be imbued with the values of One Godhead. Just and Civilized Humanitarian Precepts which implies the manifestation of values as being cultured, moral and religious, and fair in the relationship between oneself, others and their environment (Erfandi, 2016). The Principle of Unity of Indonesia contains the value that the Indonesian state is an alliance between diversity which is arranged in the framework of *Bhinneka Tunggal Ika*. Popular precepts which are led by the wisdom of wisdom in requirements or representatives which contain the value that the state is from, by and for the people. Precepts Social justice for all Indonesian people contains values which are the goals for the welfare of all citizens. The values contained in each of the

Pancasila precepts are interrelated and cannot be separated.

Indonesia in the current reformation era is increasingly strongly influenced by the globalization process that has had an impact on the life of the people and the state. The process of globalization, although it has negative impacts cannot be avoided, has also had a positive impact on especially aspects of economic growth (Martoredjo, 2016). The negative impacts of globalization that is becoming increasingly strong today is the weakening of the character and personality of the Indonesian people (Azis et al., 2021). Indonesian people, especially the younger generation, tend to have weak characters and personalities due to the influence of globalization.

The Indonesian government even suspects that the values of Pancasila as the nation's philosophy and ideology have not been implemented properly. The implication is that the existence of Pancasila as the basis of the state and the national ideology of the Indonesian nation is not applied or implemented in the life of the Indonesian society, nation and state (Hamzah, Yussof, & Enriquez, 2020). Pancasila is also still not well realized in the legal field, which can be exemplified that the making of regulations has not fully involved the people, causing problems between the contents of the article and daily life (Sumaryati & Sukmayadi, 2021). Based on the problems faced by the Indonesian nation, the epicenter of the problem actually stems from disorientation and the lack of appreciation of the values of Pancasila as the philosophy and ideology of the nation by the entire community, nation, and citizens of Indonesia.

The process of value and moral degradation is not a short process that creates the character of Indonesian society which tends to have positivistic materialistic values. Corrupt behavior is even said to have become entrenched in Indonesia. This can be interpreted that there are still errors in the education process in Indonesia, thus giving birth to a generation of humans who lack the character of Pancasila. The education process if it does not instill moral values and national character will threaten a country. Character is a positive personality trait that underlies the way of thinking, regulating the value system, behaving, and acting as a unit with the surrounding environment (Narimo et al., 2018). Character

is closer to morality, namely the spontaneity of humans in acting, or taking actions that have been integrated with humans so that when they arise there is no need to think again.

The condition of the weakening of the character and personality of the Indonesian people does not only occur at the grassroots level, but is even more concerning at the elite level of society. Even among state officials who are supposed to be examples or role models in the appreciation and practice of Pancasila values (Saidek & Islami, 2016). The low awareness of Pancasila values causes the crime rate increases every year, sharper conflicts and divisions occur in society, people's lives are more oriented towards materialism and secularism, thuggery is getting more brutal, sexual freedom is getting more vulgar, money politics in democratic parties are getting thicker, and money corruption the state by state authorities is an indicator of ethical decline in the life of society, nation and state (Keraf & Kollo, 2019). The importance of people having awareness of the values of Pancasila for the progress of the nation.

The rest of the world in this era of globalization, are becoming the main viruses that are increasingly weakening efforts to understand, appreciate and believe, as well as practice the values of Pancasila in the life of society, nation and state. Many factors influence the occurrence of the low legal awareness of the Indonesian people, namely the practice of deviations from the values of Pancasila and the 1945 Constitution that occurred in the historical experience, the existence of Pancasila as the basis of the state and national ideology has not been properly socialized, government policies are uncertain in the process of correctional and institutionalization of Pancasila values, and due to the influence of major ideologies (Manan, 2003). Therefore, efforts to socialize the values of Pancasila, together and become a unit with the correctional process of the four pillars of national life become a condition of sine qua non for the Indonesian nation.

The development and implementation of efforts to socialize the values of Pancasila are not easy. Similar efforts have been made during the New Order government with the implementation of guidelines for the appreciation and practice of Pancasila as a form of socializing Pancasila values carried out by a body called *Manggala*

BP7 (Silalahi & Yuwono, 2018). This effort turned out to be fruitless and even a dilemma. This experience became a sharp pebble to continue its implementation. It takes a strong idealism and innovative and creative efforts in accordance with the reality of the needs of the community, nation, and state to develop and implement this strategy of socializing the values of Pancasila.

The need to know the epicenter of the problems related to the not yet understood, internalized, and put into practice the values of Pancasila as the philosophy and ideology of the nation by the entire community, nation, and citizens of Indonesia. The first epicenter is in the group of people who have not, maybe even refused to accept Pancasila because Pancasila is considered a form of belief or a new man-made religion (Shofiana, 2014). The second epicenter is a group of educated people who view religion and Pancasila as only ideals that are only dreams. They consider religious norms and Pancasila unrealistic. The realistic is rationalist, pragmatic, and materialistic. Therefore, according to this group, the ideological superstructure does not determine the progress of society, but it is the technological infrastructure and capital that determine the welfare of the people.

The implementation of Pancasila which is not based on the correct understanding and appreciation will not have an optimal impact on the survival of social life and especially in the life of the nation and state. The third epicenter is the group of young and old generations who really do not understand the nature and existence of Pancasila both as the basis of the state and as a national ideology, even though they have actually implemented the values of Pancasila in their daily lives (Agussalim et al., 2021). The fourth epicenter is the group of people who actually have understood the position and function of Pancasila both as the basis of the state and as a national ideology, but many of their attitudes and behavior are contrary to the values of Pancasila. Community groups like this lose their commitment and belief in the values of Pancasila (Prasetyo, 2014). Pancasila is only used as a source of knowledge to mask himself to appear as a Pancasilaist human, but in fact he is a traitor to Pancasila.

The fifth epicenter is the group of people

who have been influenced by global ideological values. Community groups like this have lost their national identity and spirit of nationalism. Community groups like this have lost their national spirit and have replaced them with upholding universal cosmopolitan values. As a consequence, they also lose their Indonesian identity, and that means they lose Pancasila. Based the identification of the five epicenters of the problem is actually still very rough, it must be honestly acknowledged that these problems cover almost all of the Indonesian people. It is natural that nowadays we have difficulty finding figures who can truly understand, live and practice Pancasila in a pure and consistent manner (Rahardjo, 2010). The development and implementation of the strategy for socializing the values of Pancasila and other pillars of the life of the nation and state is non-negotiable as an effort to strengthen the nation's character.

Education is a conscious, planned and institutionalized human effort to improve the quality of human morals, both as individuals, social beings and the environment, as a nation and as servants and caliphs. The concept of education itself is never autonomous, neutral and universal, but contextual and particular, always in the process of change, along with changes in culture, politics, economy, social and other values that surround it (Sudjito, 2012). From time to time it is very open to changes in the concept of education. These changes will be translated into educational theory, and applied to the level of educational practice. In the end, the progress or decline of a nation's civilization can be used to see whether the education that takes place in that nation has changed for the better, is experiencing stagnation or is experiencing a setback.

Education as a concept, as a process or as a product is not value-free, but value-laden. Education as a process of forming national character is a long and never-ending process like "long life education". During the educational process, values are not taught doctrinally but are developed in a dialogical and practical way so that changes in character become natural and accepted with awareness (Argadinata & Gunawan, 2019). In fact, more than that, the national education of a nation is not only a derivative of the way of life it adheres to, but is also closely related to political choices. That

is, it is very possible that national education held by one regime of power will be different from national education held by other regimes. It is even possible and legal when this country decides that the national education system is different from other countries.

Character education based on Pancasila aims to be directed so that it does not conflict with the goals of national education in general. The objectives of character education operationally can be formulated in the mastery of a set of skills that reflect the mastery of knowledge, beliefs, values, commitments, and competencies that reflect the character of human culture and Indonesian society as a whole. With the aim of character education like this, the competencies of character education graduates in schools or colleges include faith and piety to God Almighty, noble character, knowledgeable, capable, creative, and independent; social sensitivity and concern, mutual cooperation and mutual cooperation, as well as being united in diversity, democratic, responsible, and participatory, and oriented towards healthy, frugal, and modest living (Silalahi & Yuwono, 2018). The use of Pancasila as the philosophical and ideological foundation of character education will be able to provide direction to the knowledge system that will shape the nation's character later.

Pancasila is the basis for regulating the government and the basis for state administration which must be internalized in the construction of a national legal system. In legal development, Pancasila is a philosophical foundation, namely the view of life, awareness and ideals of Indonesian law. Pancasila as a legal paradigm has at least four principles that must be used as guidelines in the construction of a national legal system, include protect the entire nation and guarantee the integrity of the nation and therefore there should be no law that instills disintegration, guarantee social justice by providing special protection for the weak so that they are not exploited in free competition against the strong, developed democratically while building democracy in line with the rule of law, and not be discriminatory and must encourage the creation of religious tolerance based on humanity and civility (Mahmodin, 2009). Pancasila is the foundation for the construction of Indonesian law.

Law must be based on the values of Pancasila

because legal products may be changed according to the times and society. Pancasila must be a framework for thinking and guiding the reform of Indonesian national law. The principles and concepts of Pancasila namely no national law product is anti-religious, national law must guarantee and protect human rights, Indonesian law must be a national law applicable to the entire Indonesian nation which functions as a unifying nation, power must be subject to just and democratic laws, all citizens have the same rights that all people are equal before the law (Kusumaatmadja, 1972). The development of a national legal system must be based on the values of Pancasila so that it can run effectively and can be used as a legal umbrella for the interests of the people in Indonesia.

CONCLUSION

The legislators in every political stage of legal reform should follow the values contained in Pancasila. As the source of all sources of law, Pancasila should become a basis for state administration, which must be internalized in constructing a national legal system. Pancasila is a philosophical foundation in legal development, namely the view of life, awareness, and ideals of Indonesian law. The values of divinity, humanity, unity, democracy, and Justice must be actualized into the legal substance, legal structure, or legal culture to be built. The Indonesian national legal system should follow the values contained in Pancasila as the primary consideration because if this was not done, it was possible that the construction of the national legal system would be ineffective and could not be used as a legal umbrella for the interests of the people as well as development in Indonesia.

REFERENCES

- Agussalim, Widjaja, S. U. M., Haryono, A., & Wahyono, H. (2021). Pancasila Economic Character Literacy Program for High School Students. *International Journal of Instruction*, 14(1), 235-252.
- Amarini, I. (May 2020). *Implementation of Verdict Based on Pancasila Values in Indonesia*. In Proceeding of the International Conference on Law, Economics and Health, Atlantis Press.
- Amir, S. (2013). Pancasila as Integration Philosophy of Education and National

- Character. *International Journal of Scientific & Technology Research*, 2(1), 54-57.
- Anam, S. (2017). System of Recruitment of Legal Profession in A Nation of Law of Pancasila. *Pandecta Research Law Journal*, 12(1), 10-18.
- Argadinata, H., & Gunawan, I. (December 2019). *The Leadership of Pancasila in Education: Foundation for Strengthening Student Characters in The Industrial Revolution Era 4.0*. In Proceedings of the 4th International Conference on Education and Management, Atlantis Press.
- Arief, B. N., & Tanya, B. (2009). *Implementasi Ide-Ide Dasar Pancasila dalam Pembaharuan Hukum Pidana Indonesia*. Bangkalan: Universitas Trunojoyo.
- Azis, D. K., Saihu, M., Gunawan, A. R., & Islamy, A. (2021). Pancasila Educational Values in Indicators Religious Moderation in Indonesia. *Jurnal Kajian Ilmu-ilmu Keislaman*, 7(2), 229-244.
- Dewantara, J. A., Suhendar, I. F., Rosyid, R., & Atmaja, T. S. (2019). Pancasila as Ideology and Characteristics Civic Education in Indonesia. *International Journal for Educational and Vocational Studies*, 1(5), 400-405.
- Erfandi. (2016). Implementasi Nilai-Nilai Pancasila dalam Pembangunan Sistem Hukum Pidana di Indonesia. *Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan*, 1(1), 23-32.
- Gunawan, Y. (2015). *Perkembangan Konsep Negara Hukum dan Negara Hukum Pancasila*. Bandung: Refika Aditama.
- Hamzah, S., Yussof, M. H. B., & Enriquez, A. A. (2020). Togetherness in the Diversity of The Pancasila Ideology Frame. *Journal of Social Work and Science Education*, 1(1), 8-12.
- Intan, B. F. (2006). *Public Religion and The Pancasila-Based State of Indonesia: An Ethical and Sociological Analysis*. New York: Peter Lang.
- Jannah, F., & Fahlevi, R. (December 2018). *Strengthening the Pancasila Character Values in Forming the Character of Pancasila Generation*. In Proceeding of the 1st International Conference on Creativity, Innovation and Technology in Education, Atlantis Press.
- Junaedi, J. (2019). The Axiology of Pancasila in the Reconstruction of Legal Culture in Indonesia. *Jurnal Ilmu Hukum*, 6(1), 7-13.
- Kaelan. (2002). *Filsafat Pancasila Pandangan Hidup Bangsa*. Yogyakarta: Paradigma.
- Kaelan. (2010). *Pendidikan Pancasila*. Yogyakarta: Paradigma.
- Kelsen, H. (2014). *Teori Umum tentang Hukum dan Negara*. Bandung: Nusa Media.
- Keraf, F. M. P., & Kollo, F. L. (2019). Preventing Radicalism Through the Values of Pancasila and Instilling the Value of Character in Young Citizens. *International Journal for Educational and Vocational Studies*, 1(4), 339-344.
- Kusnadi, S. A., Gandryani, F., & Purwaningtyas, F. D. (2021). Philosophical Values of Pancasila on the Intellectual Property Rights Regulation in Indonesia. *Journal of Law, Policy and Globalization*, 113(4), 28-34.
- Kusumaatmadja, M. (1972). *Pembinaan Hukum dalam Rangka Pembangunan Nasional*. Bandung: Bina Citra.
- Latief, A., Nadir, M., Pangalila, T., Lonto, A. L., Suyanto, T., & Warsono, M. (January 2018). *Revitalizing the Value of Pancasila in the Development of the Character of Indonesian Citizens*. In Proceeding of the 1st International Conference on Social Sciences, Atlantis Press.
- Manan, B. (2003). *Teori dan Politik Konstitusi*. Yogyakarta: Fakultas Hukum Universitas Islam Indonesia Press.
- Martoredjo, N. T. (2016). Building Character Through Pancasila Values to Sovereign Nation. *Humaniora*, 7(1), 116-121.
- Mahmodin, M. M. (2009). *Pancasila dalam Berbagai Perspektif*. Jakarta: Sekjen dan Kepaniteraan Mahkamah Konstitusi.
- Mahmodin, M. M. (2011). *Implementasi Nilai-Nilai Pancasila dalam Menegakkan Konstitusionalisme Indonesia*. Yogyakarta: Universitas Gadjah Mada.
- Mertokusumo, S. (2010). *Mengenal Hukum*. Yogyakarta: Cahaya Atma Pustaka.
- Narimo, S., Maryadi, M., Fatoni, A., Anif, S., Sumardjoko, B., & Adhantoro, M. S. (2018). Pancasila and Citizens Education (PKn) Learning Based on Local Culture in The Establishment of Student Characters. *Profunedu International Conference*

- Proceeding*, 1(2), 255-260.
- Prasetyo, T., & Barkatullah, A. H. (2012). *Filsafat Teori dan Ilmu Hukum*. Jakarta: Rajawali Pers.
- Prasetyo, T. (2014). *Membangun Hukum Berdasar Pancasila*. Bandung: Nusa Media.
- Putra, G. S. S. J. A. (2015). Actualization Pancasila Indonesia Perspective as Legal Reform Law Progressive. *International Journal of Business, Economics and Law*, 8(4), 168-170.
- Rahardjo, S. (2010). *Penegakan Hukum Progresif*. Jakarta: PT Kompas Media Nusantara.
- Raihanah, S., & Hasanah, M. (2019). Strengthening the Pancasila Character Values in Forming the Character of Pancasila Generation (Constructive Study of Character Education in Primary Schools). *The innovation of social studies journal*, 1(1), 77-80.
- Republik Indonesia. (2011). Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan. Lembaran Negara Republik Indonesia Tahun 2011 Nomor 82. Tambahan Lembaran Negara Republik Indonesia Nomor 5234.
- Rindjin, K. (2009). *Pendidikan Pancasila*. Singaraja: Universitas Pendidikan Ganesha.
- Rogers, M., Siregar, G., & Siregar, S. A. (2020). Existence of Pancasila as A Staats fundamental Norm of The Nation and State of Indonesia in Facing Economic Globalization Challenges. *Journal of Advanced Research in Dynamical and Control Systems*, 12(6), 589-595.
- Saidek, A. R., & Islami, R. (2016). Character Issues: Reality Character Problems and Solutions Through Education in Indonesia. *Journal of Education and Practice*, 7(17), 158-165.
- Shofiana, G. F. (2014). Philosophy, Pancasila and Modern Technology. *Yuridika*, 29(2), 139-148.
- Silalahi, R., & Yuwono, U. (2018). The Sustainability of Pancasila in Indonesian Education System. *Research in Social Sciences and Technology*, 3(2), 58-78.
- Soekanto, S. (2014). *Penelitian Hukum Normatif Tinjauan Secara Singkat*. Jakarta: Rajawali Pers.
- Sudijto. (2012). *Hukum dalam Pelangi Kehidupan: Pendidikan Karakter Bangsa Berlandaskan Peradaban Nusantara yang Mencerdaskan dan Mencerahkan Bangsa*. Yogyakarta: Gadjah Mada University Press.
- Sudrajat, T. (2018). Harmonization of Regulation Based on Pancasila Values Through the Constitutional Court of Indonesia. *Constitutional Review*, 4(2), 301-325.
- Sumaryati, & Sukmayadi, T. (2021). Kebenaran Pancasila sebagai Dasar Negara dalam Pandangan Mahasiswa Program Studi Pendidikan Pancasila dan Kewarganegaraan. *Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan*, 6(2), 408-416.
- Thotowi, J. (2016). *Pancasila dalam Perspektif Hukum: Pandangan terhadap Ancaman The Lost Generation*. Yogyakarta: Universitas Islam Indonesia Press.
- Triyanti, N. (2019). Re-Actualization of Pancasila Values on Law Establishment in The Economic Globalization Era. *Jurnal Pembaharuan Hukum*, 6(2), 214-255.