Pancasila Law State As An Instrument Of Indonesian Legal Politics: Efforts To Achieve A Just Indonesian Legal State

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Abstract

The law is actually present for humans, and not the other way around. This means that the law must be able to meet the human needs that are purposeful and boil down to the end of the whole substantive justice. Pancasila has accommodated that spirit as a whole, the second and fifth precepts are the two. Precepts of Pancasila expressly carry the spirit of justice as one of its main pillars. This normative juridical paper uses 2 research approach methods, namely the statute approach and he historical approach. The data used in this study are secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials that are processed through 3 phases of processing data, namely data reduction, presentation and verification. Law enforcement, especially judges, have an important role in carrying out and building the legal structure of the Pancasila Law State, one of the main spearheads is social justice (justice for people) with rule breaking efforts. The spirit that law enforcement should have should not be solely according to the legal way but rather refer to the reasonable way. The legislators also play an important role, the stages and process of legislation are one part of the frame of the fundamental structure of the Pancasila Law State because at the stage of the spirit of the regulation is formed.
A. Introduction

Indonesia is a constitutional state based on law. This means that the powers of the government, the rights of the people and the relationship between the powers of the government and the rights of its citizens are governed by law.\(^1\) The existence of the Indonesian legal state is formally-legalistically stated clearly and unequivocally in the two Basic Laws. Pancasila as the source of all sources of law has obtained legitimacy legally through the Decree of the People’s Consultative Assembly Number XX / MPRS / 1966 on the Memorandum of the House of Representatives-Gotong Royong Regarding the Sources of Law and the Order of the Republic of Indonesia.\(^2\) The development of the Indonesian legal state continued to roll until finally constitutionally reaffirmed in the amendment to the third amendment to the 1945 Constitution dated November 9, 2001, namely in Article 1 paragraph (3) it was stated that the Indonesian state is a state of law. However, before the third amendment of the 1945 Constitution, the statement that the state of Indonesian law is a state of law is not included in the Torso of the 1945 Constitution, but only included in the General Explanation of the 1945 Constitution which says that the Indonesian state is based on law (rechtsstaat), not based on mere power (machtsstaat).

What is the purpose of the Indonesian State of Law based on the principles of Pancasila, of course, this is the starting point for the discussion of this paper. Pancasila is the basis of the State, namely a conception designed by mutual agreement with the aim of being able to answer the challenges and problems of the nation and the State.\(^3\) By using one of the legal theories proposed by Prof. Satjipto Rahardjo one of begawan Indonesian law. The purpose of the law will certainly be directly proportional to the purpose of the state of law, especially if we enter into the level of the purpose of a certain legal state owned by each country.\(^4\) It will be influenced by a wide variety of factors, mainly the ideology of the country, the legal politics of the country, and of course the social, economic and cultural conditions. As with Indonesia, the State of Pancasila Law has become a patent label for the Indonesian legal state. Where Pancasila is the ideology of the Republic of Indonesia, as the theory compiled by Hans Nawiasky "theorie von stufenbau der rechtsordnung" where the staats fundamental norm is the fundamental norm of the state, the contents of the staatfundamentalnorm are norms that is the basis for the formation of a constitution or constitution of a constitutionstate (staatsverfassung), including the norm of its modification, in the state of norm.\(^5\)

One of the most relevant theories of legal objectives to justify the state of pancasila law in an effort to realize progressive law, one of which is the theory of legal objectives according to Gustav Radbruch. The purpose of the law according to Gustav Radbruch is threefold, yathat:\(^6\)

1. The Purpose of Justice
2. Purpose of Certainty
3. Purpose of Expediency

The three objectives above, the author considers the most relevant if we contextualize the current condition of Indonesian law. The law must not be dry, the law must be able to be thirst

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\(^2\) Fais Yonas Bo’a, Pancasila Sebagai Sumber Hukum dalam Sistem Hukum Nasional, Jurnal Konstitusi Volume 15 Nomor 1, 2018 (Mahkamah Konstitusi : Jakarta) : 47


\(^5\) Hamid Attamimi, UUD 1945-Tap MPR Undang-Undang “The relation between the three legal norms” (Jakarta, 1981) : 4

\(^6\) Muhammad Erwin, Filsafat Hukum (Raja Grafindo, Jakarta, 2012) : 123.
quencher, the law must be useful not while guaranteeing its legal certainty which must then boil down to the substantion of the intrinsic justice. That is certainly the legal mind we want, *ius constitutendum*. But in reality, there will be many things that impede our conscience and legal logic.

There are still some legal cases in our minds, which may be conscientiously inappropriate if that's the case, the merit is to be like this. So it is not surprising that in discussions among the public at any level in Indonesia, it will be agreed that our law is a law that is inconsistent with being corroborated by one of the proverbs of Indonesian law that is sharply downwards and bluntly upwards. Pancasila will be translated into the constitution, precisely the 1945 Constitution. The Constitution can also be interpreted: "A constitution as a form of social contract joining the citizens of the state and defining the state itself".7 The close relationship between the two is very close, so then the position of cosnitution becomes very important in carrying out the goals of pancasila.8

One of them is the case of Grandma Asyani who was sentenced to 1 year in prison for stealing 7 teak logs that she used as a chair, the case had become the highlight of many experts and legal observers, 6 years after the grandmother's case Minah reiterated a similar case experienced by Asyani's grandmother. Grandma Asyani's grandmother's case occurred in the Situbondo area, East Java in 2014-205. Asyani and Ruslan's grandmother (son-in-law) along with Cipto (carpenter) and Abdussalam (car driver) were dragged in green shirts on charges of illegal logging, Article 12 juncto Article 83 of the Act Law Number 18 of 2013 concerning Illegal Logging with the threat of 5 years in prison.

In fact, Grandma Asyani has given the following information, that the wood she transported was the mistress of her late husband, who was id tanan himself on his own land. From all the evidence made by the Public Prosecutor (JPU) and the defendants, it has actually led to, that the ownership of the wood belongs to Asyani's grandmother. What is even more ironic is why the Article of conjecture and conjecture used is Article 12 juncto Article 83 of the Illegal Logging Act, why not article 362 of the Criminal Code. As much as the response of the professor of the Faculty of Law, Pahariyangan University (UNPAR) Bandung, Asep Warlan Yusuf, according to him, the use of Article 12 juncto Article 83 of the Illegal Logging Law with the threat of 5 years in prison is not appropriate, since Asyani's grandmother did not carry out the transportation of the timber in an organized manner and not in large quantities, this was contrary to the passage of the article alone.

In line with Asep Warlan Yusuf's answer, Arsul Sani, a member of the Indonesian House of Representatives Commission III, assessed that the charges presented to Grandma Asyani were not *social justice insightful*. In his view the charges were too onerous and inconsistent with his guilt of stealing seven teak logs. According to him, in cases like this, both the public prosecutor (JPU) and the panel of judges need to apply the concept of *social justice* which boils down to retributive justice, namely examining, prosecuting, and deciding cases by prioritizing a sense of justice and only looking at the sound of criminal articles in the Criminal Code and other laws and regulations.9

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Based on the above case, it is seen that the title of the case seems forced, the upstream of criminal cases like this is the police, investigators and investigators are the spearheads mainly in our efforts to enforce the law, it requires investigators and investigators who are capable, clever, professional and have integrity and of course are concerned. Do not let then the cases that rise to the face of the persidangan are cases that seem forced like the two cases above, cases that then deepen the color of law enforcement itself. We believe that in the essence of law enforcement put forward the filing of the law, carrying out the sounds and mandates of every pof origin in the regulation of legislation, but the event of n then forgets the other purpose of law which is justice and expediency of the law.

Grandma Aryani's case above is only a small sample of the blurry case of our legal condition. The analogy of a stinging knife is precise, the law is blunt upwards and sharply downwards. Let's compare it with some of the cases that have become anti-action against the case of Grandma Aryani, namely the case that until now has not ended or is not completed, namely the Century Bank case. Who doesn't know with this case, whether it has entered into episodes and how many volumes the story is, this case has shocked Indonesia and even abroad which until now the case is not resolved, as resolved as it should have been.

On June 16, 2014, the prosecutor charged Budi Mulya with 17 years' imprisonment and a fine of 800 million for abusing authority or unlawful acts related to the designation of Bank Century as a failed bank with systemic impact and the provision of a Short-Term Loan Facility to the detriment of State finances of IDR 7 trilli.\(^\text{10}\)

If we compare it with the case of Grandma Asyani, Robert Tantular was only sentenced to 4 years in prison and a fine of Rp. 50 billion / subsider 5 months in prison, even this sentence was much lighter than the prosecutor's demands. A fair law should be the goal of Indonesia's law enforcement estuary, one of the legal institutions that contributes to the thought of being disharmonized with three legal objectives, namely justice, expediency and certainty should be exercised simultaneously, not acquiring or exalting one or two of them.

According to Satjipto Rahardjo, the law must dare to get out of conventional methods and tatus quo.\(^\text{11}\) The legal text, which has been defied and prioritized, makes the law too arid so that the three legal objectives (justice, certainty and expediency) are not achieved perfectly. Legal certainty is indeed one of the goals, but do not abandon the goal of justice and as well as the expediency of the law itself, being in a linear line with legal theory progressive that the law exists for man, not man exists for the law. It is also in accordance with the ideology of our country, Pancasila. The characteristic and distinctive view of Indonesian law comes from a deep excavation of all the values of the Indonesian nation, which was then respected by the founding fathers Indonesia has become a view of the nation's life in various aspects, including legal life.

One of the values that becomes a high in the substance structure of Pancasila is justice, expressed firmly in the second precept and the fifth precept Pancasila, which of course is tied to a knot tightly with other precepts, including one of them is the divine invitation in the first precept. It is also in accordance with the ideology of our country, Pancasila.\(^\text{12}\) Pancasila contains a legal concept, namely responsive law. Responsive Law is law

\(^{10}\) BBC, Curi 3 buah kakao, Nenek Minah divonis 1 bulan 15 hari https://www.bbc.com/indonesia/berita_indonesia/2014/07/140716_bankcentury_101, accessed on Friday, June 18, 2021 Puul 14.06 WIB).


as a means to respond to social provisions and aspirations of society.\textsuperscript{13} Rule of law so asserts Nonet and Selznick in modern society no less authoritarian as opposed to the sovereignty of the people /rulers (rule of men) within premodern society.\textsuperscript{14} The legal view of the Indonesian state that has characteristics and characteristics derived from a deep excavation of all the values of the Indonesian nation, which was then respected by the founding Indonesian fathers became a view of the nation's life in various aspects, including legal life. One of the values that become a high in the substance structure of Pancasila is justice, expressed firmly in the second precept and the fifth precept of Pancasila which is certainly tied to the knot closely with other precepts, including one of which is the divine invitation in the first precept.

Novelty in this paper, the author tries to dig deeper into the correlation of the conception of Negara Hukum Pancasila, the State of Indonesian Law and The Law of Justice. Pancasila with its value of justice which is certainly Berlinier with all legal goals that are also equally looking for the ultimate goal, namely the purpose of justice

B. Discussion
1. Research Result
a. State of Pancasila Law

Sjachran Basah states that the state of law based on Pancasila is a state of prosperity based on laws based on law based on Pancasila both as the basis of the state and as the source of all sources of law, by rejecting absolutism in all forms.\textsuperscript{15} In relation to the state of law in Indonesia, there are formally six elements of which.\textsuperscript{16}

1. Pancasila is the source of all sources of law;
2. The highest power is exercised by the MPR;
3. Government based on the constitutional system;
4. Judicial power is an independent power in the sense of being free from the influence of governmental power;
5. Equality of position in law and government for all citizens and the obligation to uphold law and government, without exception;
6. The law serves as an advocate in the sense of upholding a democratic life and a life of social justice.

It is said that Pancasila is the source of all sources of law in Indonesia because Pancasila is the basis of the Indonesian state, meaning that lawmakers can make laws and regulations / laws but must not conflict with the values of Pancasila and if it conflicts with the values in Pancasila, the laws and regulations / laws are null and void. besides these values, laws/laws must be made in a hierarchical manner where the lower rules must not contradict the rules on them, meaning they must use the theory of synchronization and harmonization. The state of Pancasila law not only protects the entire Indonesian nation and all Indonesian bloodshed but also seeks to advance the welfare of the general public and educate the nation's life as stated in the Preamble to the 1945 Constitution. An explanation of the meaning of the founding fathers in the state of law has given a clear direction and foundation for development and progress in achieving the ideals of the nation according to the preamble to the preamble of the 1945 Constitution of the

\textsuperscript{16} Padmo Wahjono, \textit{The State of Indonesia on the Law}, (Publisher: Ghalia Indonesia, Jakarta, 1983) : 132.
Republic of Indonesia which has values of strengthening character based on Pancasila.\(^{17}\) According to Sukarto Marmosudjono, in relation to the state of law there are 4 principles contained in Pancasila and the 1945 Constitution including:\(^{18}\)

1. The principle of legal order is embodied by two things. First, the order of human life in society, nation, and state must have clear legal provisions and contain legal certainty. Secondly, all actions in the life of society, nation and state are actually carried out on the basis of legal provisions.
2. The principle of protection and protection of the law, is realized by providing a sense of security and peace for the life of the people as a whole. This principle is reflected in the Preamble to the 1945 Constitution of Indonesian blood.
3. The principle of equal rights and obligations before the law.
4. The principle of legal awareness is realized by the awareness to comply with the provisions of the law and awareness to bear the shared responsibility in enforcing the law.

**b. Legal Purposes**

Immanuel Kant put forward the understanding of the state of hukun in a narrow sense, that the state is only as a protection of individual rights, while state power is interpreted passively, tasked with maintaining order and security of society.\(^{19}\) The concept of hukun state in this sense is known as nachtwakerstaat. Further developments, the understanding of the state of law proposed by Immanuel Kant underwent changes with the emergence of the understanding of the State of welfare law (walfare state). The features of the legal state were as follows:\(^{20}\)

1. There is a protection of human rights.
2. Separation or pempart of the power to guarantee human rights.
3. Government based on regulations, and
4. The existence of an administr courtacanyon in dispute.

Sri Soemantri put forward the most important elements of the state of law namely (Sri Soemantri, 1992, pp. 29-30):

1. That the government in carrying out its duties and obligations must be based on law or legislation.
2. There is a guarantee of human rights (citizens).
3. The existence of a division of power.
4. There is supervision of the judicial bodies (rechterlijke contole).

For the Indonesian state, it is inseparable from history where the term law adopted comes from the civil law legal system and in its development is also strongly influenced by the legal development of the anglo saxon legal system, so in addition to being used the term state of law which is a direct translation of the rechtstaat\(^{21}\), the term the rule of law is also used, according to Sunaryati Hartono, for example using the term state punish with the rule of law, this can be seen from the title of his book "Is the rule of law" and is also explained in his book written therefore, in order for the creation of a legal state that brings justice to all the people concerned

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\(^{17}\) Rian Sacipto, *Pembentukan Karakter Anti Korupsi Berlandaskan Ideologi Pancasila*, Jurnal Pancasila Volume 3 Nomor 1, 2022 (Universitas Gadjah Mada (UGM) : Yogyakarta) : 2


the enforcement of the *rule of law* must be in a material sense\(^{22}\), so that constitutionally in Indonesia, the term state of law has been stipulated in Article 1 paragraph (3) of the 1945 Constitution in the third amendment. In addition, according to Jimly Asshiddiqie that the Principles that are considered important features of the state of law according to the *independence and impartiality* of judiciary are\(^{23}\): 1. The state must be subject to the law; 2. The Government respects the rights of individuals; and 3. A free and impartial judiciary.

Based on the description above, regarding the state of law, both thoughts or concepts or *understandings of rechtsstaat and the rule of law*, there are essentially principles that are essentially the same, namely they both contain the principle of legality, the principle of separation (division) of power, the principle of independent judicial power and respect and protection of human rights. All of this is nothing but aimed at preventing the actions of the state or government from committing abuse of power or arbitrary and tyrannical acts.

The legal purpose of a country will depend on the context of the legal state it adheres to. One of the theories of legal objectives that corresponds to the factual conditions of the Indonesian state is the theory of legal objectives by Gustav Radbruch, the three legal objectives are:

1. Legal Justice
2. Legal Certainty
3. Legal Expediency

**c. Fair Law**

Law as an ideal is closely related to the conceptualization of justice, but the law apparently cannot operate only by falling out with those abstract concepts. The law can only work through human help. The ideology of bangs has a strong substantive judicial substance, it is only the *political will* of the policymakers, the Conscience of the law enforcers and the reality of the law-savvy society that determines its journey. According to Satjipto Rahardjo, progressive law enforcement is to carry out the law not just a black-and-white word from the regulation (*according to the letter*), but according to the spirit and deeper meaning (*to very meaning*) of the law or law. Law enforcement is not only intellectual intelligence, but rather with spiritual intelligence.

In other words, law enforcement carried out with determination, empathy, dedication, commitment to the suffering of the nation and accompanied by the courage to seek other avenues than is usually done, this is very possible for judges to bring about justice in each of their verdicts. That is to say that a progressive judge is a judge who has the will and ability to think and act progressively that frees him from the shackles of the text of legal documents, but rather for human happiness and well-being. The spirit that the judge should have is to not solely according to the legal way but rather than that according to the *reasonable way*. In the event of a stalemate, the judge is required to find innovative and creative alternative ways when carrying out the law *to the letter*. This is important because, the application of the principle of seeking and realizing justice is the parameter of the community's assessment of the performance of judges.

The state of law, terminologically in various countries such as European and American countries, uses different terms, for example Germany and the Netherlands *use the rechtsstaat* as opposed to the state of power (*machstaat*).\(^{24}\) The term *Rechtsstaat* has a meaning that is parallel to the meaning of the *Rule of Law*, in France it uses the term *Etatde Droit*, while in


Spanish the term used is *Estado de derecho*. In addition, in Italy it uses the term *Stato di Diritto*, but in English terminology it is known as the state according to law or according the rule of law\(^{25}\). The term *rechtsstaat* translated as the state of law according to Philipus M. Hadjon became popular in Europe since the 19th century, although thoughts about it have long existed\(^{26}\). The mind of the state of law was first put forward by Plato and then the thought was affirmed by Aristotle\(^{27}\). According to Aristotle, who rules in a country is not a human being, but rather a just mind and it is morality that determines the good or bad of a law. According to Aristotle, a good country is one that is governed by a constitution and has legal rights. Aristotle states\(^{28}\): “Constitutional rule in a state is closely connected, also with the requestion whether is better to be ruled by the best men or the best law, since a government in accordance with law, accordingly the supremacy of law is accepted by Aristoteles as mark of good state and not merely as an unfortunate necessity”.

Aristoteles also put forward three elements of constituent government. First, the government is implemented in the public interest. Second, government is carried out according to laws based on general provisions, not arbitrarily created laws that override conventions and constitutions. Third, a constituent government implemented by the will of the people\(^{29}\). Aristotle’s thought is recognized as the ideal of the state of law known today. In fact, all three elements are almost discovered and practiced by all countries that identify as states of law.

The concept of a *rechtsstaat* legal state in Continental Europe was originally based on an *individualistic* liberal philosophy. That *individualistic* feature is very prominent in the thought of the legal state according to the concept of Continental Europe, the concept of *rechtsstaat* according to Philipus M. Hadjon was born from a struggle against absolutism, so that its nature was revolutionary\(^{30}\). The characteristics of *rechtstaat* according to Philipus M. Hadjon are as follows\(^{31}\):

1. The existence of a Basic Law or constitution that contains written provisions on the relationship between the ruler and the people.
2. The existence of a division of state power.
3. Recognition and protection of the rights of freedom of the people.

The points of mind of the state of law both stated by Jimly Asshiddiqie and Sukarto Marmosudjono are in accordance with the principles and values in Pancasila. Thus the law is not made to guarantee the interests of some powerful people, but to guarantee the interests of all Indonesian citizens. The Constitution is the only legal instrument that is able to accommodate and guarantee the rights of citizens, Indonesia already has it, namely the 1945 Constitution.

The will of all citizens is reflected in the 1945 Constitution which is a form of general agreement of all Indonesian citizens. Therefore, the 1945 Constitution is the highest law of all lower legal norms and all practices of state and national life must be in accordance with the provisions of the 1945 Constitution by not ignoring the principle of the One True Godhead which is one of the state ideals of Indonesian Pancasila law.

It is necessary to realize, that the main purpose of law is order. Compliance with order is a basic condition for an orderly society. In addition to the purpose of law, namely order, it is also necessary to achieve justice and to achieve this order, it is necessary to have an association...
between the community that must reflect the existence of legal certainty, meaning that the law must be implemented and enforced so as to create legal certainty. With legal certainty, which is one of the elements in the law enforcement process, it can provide a more orderly community situation so that it has a great impact on society and not only the creation of justice but can provide welfare to the People of Indonesia.

Even as Indonesia's national ideals that adhere to the state of welfare law or the state of material law can refer to Pancasila as the main basis and source of law, namely in the 5th precept of Pancasila which obliges the state to ensure the realization of social justice for all Indonesian people. This is very clearly mandated in the Second Paragraph of the Preamble to the 1945 Constitution by the narration of words of justice and prosperity which are interpreted and understood as the needs of the people, both physical and spiritual. In addition, it is also explained in the Fourth Paragraph of the Preamble to the 1945 Constitution, namely:

The Indonesian state government that protects the entire Indonesian nation and all Indonesian bloodshed and to promote the general welfare, educate the nation's life and participate in carrying out world order based on independence, peace and social justice. Furthermore, this is emphasized in the torso of the 1945 Constitution, Paragraph 33 paragraph (3) of the 1945 Constitution which is the ideal of pancasila law, namely: "The earth and water and the natural wealth contained therein are controlled by the state and used for the greatest prosperity of the people".

Thus, the state of law functions as a means to realize and achieve the goals of the Indonesian state so that the state in order to realize welfare can function as a servant of the people and therefore, the Indonesian state is required to provide the best and widest possible service to the Indonesian people. This is the characteristic of a country that adheres to the state understanding of welfare law that is oriented towards the values of Pancasila.

In addition to Pancasila as the source of all sources of law in Indonesia, Pancasila also acts as an ideologie of the Indonesian nation, as a view of life because Pancasila is able to unite the entire plural / plural Indonesian nation. If we draw a common thread, one of the substances of the Pancasila precepts is justice, in the fifth precept of Pancasila telag it is firmly stipulated that one of the goals of Neraga Indonesia berdidi is to reach the point of justice for the Indonesian people. One of the important discourses in the life of this nation and country is legal justice. But before talking more deeply about the purpose of the law is not an easy thing. Because talking about the purpose of the law and the definition of the law is equally difficult. Both have the same object of study which discusses how the law itself is. Law is an important part of regulating and creating order in society. Therefore, the law is used as an instrument in regulating the behavior of every individual in society in achieving a goal. The purpose of the law needs to know the clear object of its study. For this reason, it is necessary to understand the basis and background of the object of discussion. This is very important in order to facilitate the understanding. The study of the purpose of this law is oriented so that the description of the understanding and limitations of the topic of the problem is easy to understand.

Justice, is the ultimate goal that will be achieved if we look at the framework of pancasila thinking. Where the first precept, the one true godhead becomes the first beginning as the first and main capital of Indonesian citizens in carrying out the life of the nation and state, that if every citizen of the country carries out the religious teachings that have been recognized and determined by the State properly and correctly, it is certain that every citizen will become a citizen who obeys the law, obey the rules and have a good character, because it is certain that the values of religious teachings all contain the value of goodness. The second precept is the flow of thinking that is the goal of the implementation of the first precept, that justice and

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civility will be achieved afterwards. After the second and second precepts are carried out, the unity and unity of the nation will be realized in all aspects of state life. This unity will then transform into a new order in the sphere of constitutional life, the guarantee of this nation being led by just leaders again wise and thinking about the fate of the nation. So then at the end, social justice will be achieved for all Indonesians. That is at least the state thinking pattern of Pancasila law that the author understands. The first key is to be a human being, a godly citizen, this is the initial capital to lead to true justice. Why then came the seuah adegiu which is very much in the spirit that first morals, and then science.

Such a holistic view gives a visionary awareness that something in a certain order has parts that are interrelated either with the other part or with its whole. Progressive law means a law that cares about humanity so it is not limited to mere dogmatics. Specifically, progressive law, among others, can be called a pro-people law and a just law. The concept of progressive law is that law does not exist for its own benefit, but rather for a purpose that is outside of itself. Therefore, progressive law abandoned the tradition of analytical jurisprudence or rechtsdogmatiek. These schools only look into the law and talk about and analyze inward, especially the law as a regulatory building that is judged as systematic and logical.

Pancasila is the first and main foundation in the Indonesian legal structure. The legal view of the Indonesian state that has characteristics and characteristics derived from deep digging into all the values of the Indonesian nation, which was then respected by the founding fathers of Indonesia became a view of the nation's life in various aspects, including the life of the law. Themere legal power which in this case is sourced to Pancasila, as the source of all sources of law. Sjachran Basah named the state of law in Indonesia as a state of law based on Pancasila as stated below:

"The meaning of the state of law is not separate from the pillar itself, that is, the understanding of legal sovereignty. This understanding is a teaching that states that the highest power lies in the law or there is no other power except legal power alone which in this case comes from Pancasila as the source of all sources of law."

C. Conclusion

Law as an ideal is closely related to the conceptualization of justice, but law apparently cannot operate only by intersecting those abstract concepts. The law can only work through human help. The ideology of bangs a sejatia already has a strong substantive judicial substance, just the political will of the policymakers. It is the conscience of law enforcement and the reality of the law-savvy society that determines its journey. Then enforcing the state law Pancasila should carry out the law not just words, black and white from the regulations (according to the letter), but according to the spirit and deeper meaning (to very meaning) of the law or law.

Law enforcement is not only intellectual intelligence, but rather with spiritual intelligence. In other words, law enforcement carried out with determination, empathy, dedication, commitment to the suffering of the nation and accompanied by the courage to seek other avenues than is usually done, this is very possible for judges to bring about justice in each of their verdicts. The spirit that law enforcement should have should not be solely according to the legal way but rather refer to the reasonable way. The excavation of Pancasila values should be carried out, considering that Pancasila already contains all these things.

This is important because, the application of the principle of seeking and realizing justice is the parameter of the assessment of the people in the Indonesian law. The Judiciary is one of the institutions that is the main reflection of law, Indonesia must change the paradigm of the current legal enforcement, rigidity in embodying the sounds of the article will not perbah is

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33 Sjachran Basah, The Existence and Benchmarks of administrative justice agencies in Indonesia, (Publisher: Almuni, Bandung, 1985) : 1.

34 Ibid.
able to dig in and achieve the substance of the purpose of the article itself. Moreover, there are still many colonial regulations that we still use to be included in our statutory system. The legislators also play an important role, the stages and process of legislation are one part of the frame of the fundamental structure of the Pancasila legal state because at the stage of the spirit of the regulation is formed. Even though this should not be an alibi and justification in this effort to bangsa firm the purpose of the state of law, especially the state of law bersasas Pancasila which is very loaded the meaning of justice.

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