



Pancasila Law State as an Instrument of Indonesian Legal Politics: Efforts to Achieve a Just Indonesian Legal State

David Aprizon Putra

IAIN Curup, Indonesia

davidaprizonputra@iaincurup.ac.id

Nadia Veronica

IAIN Curup, Indonesia

veronicanadia604@gmail.com

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Abstract

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Abstract

Law exists to serve humanity, not the other way around. Therefore, legal systems must address human needs and ultimately achieve substantive justice. Pancasila, as a foundational ideology, embodies this principle, particularly through its second and fifth precepts, which emphasize justice as a core value. This normative juridical study employs two research methodologies: the statute approach and the historical approach. The data utilized in this study include secondary sources such as primary legal materials, secondary legal materials, and tertiary legal materials. Data processing involves three stages: data reduction, presentation, and verification. Law enforcement, particularly judges, play a crucial role in implementing and developing the legal framework of the Pancasila Law State, with a focus on social justice and addressing legal violations. Effective law enforcement should not be confined to strict legal procedures but should also embrace reasonableness. Legislators also play a vital role, as the legislative process is integral to the Pancasila Law State's fundamental structure, shaping the spirit of the regulations..

A. Introduction

Indonesia is a constitutional state governed by the rule of law, meaning that the authority of the government, the rights of the people, and the relationship between the government and



its citizens are all regulated by law.¹ The legal status of Indonesia as a constitutional state is explicitly affirmed in its foundational laws. Pancasila, as the ultimate source of all legal authority, was formally legitimized through the People's Consultative Assembly Decree No. XX/MPRS/1966 on the Memorandum of the Gotong Royong House of Representatives Regarding the Sources of Law and the Order of the Republic of Indonesia.² The evolution of Indonesia's legal system culminated in the third amendment to the 1945 Constitution, enacted on November 9, 2001, which formally codified in Article 1, paragraph (3) that Indonesia is a state governed by law. However, prior to this amendment, the affirmation that Indonesia was a constitutional state was not included in the body of the 1945 Constitution, but rather in its General Explanation, which declared Indonesia as a state based on law (*Rechtsstaat*) rather than mere power (*machtsstaat*).

The purpose of the Indonesian state based on the rule of law, as framed by the principles of Pancasila, serves as the central focus of this paper. Pancasila is the foundation of the state³, representing a conception agreed upon collectively to address the nation's challenges. In applying legal theories such as those proposed by Prof. Satjipto Rahardjo, a leading figure in Indonesian law, the objectives of the legal system align with the broader goals of a constitutional state.⁴ These objectives are influenced by numerous factors, including the nation's ideology, legal politics, and socio-economic and cultural contexts. In Indonesia's case, Pancasila law has become a defining feature of its legal system. According to Hans Nawiasky's theory, *theorie von stufenbau der rechtsordnung* (the theory of the hierarchical structure of legal norms), the state's fundamental norm (*staatsfundamentalnorn*) serves as the basis for the constitution and its modifications within the legal order. This norm forms the foundation upon which the legal framework of the state is built.⁵

One of the most pertinent legal theories supporting the Pancasila-based legal state in its pursuit of progressive law is Gustav Radbruch's theory of legal objectives. According to Radbruch, the law serves three fundamental purposes:⁶

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

These three objectives are especially relevant when contextualizing the current state of Indonesian law. Law should not be rigid or detached; it must address societal needs, providing utility while ensuring legal certainty and ultimately embodying intrinsic justice. This vision represents the ideal legal framework, or *ius constituendum*, that we aspire to achieve. However, in practice, numerous factors may hinder the realization of this legal ideal, creating a dissonance between legal conscience and legal logic.

Many legal cases in Indonesia may strike us as unjust in terms of their outcomes, leading to the widespread perception that the legal system is inconsistent. This is captured in the Indonesian legal proverb that describes the law as "sharp downward, but blunt upward," reflecting unequal enforcement across different social strata. Pancasila, as the ideological

¹ Sahat Maruli, Tua Situmeang, and Ira Maulia Nurkusumah, "Situmeang - Pengaturan KBGO" 3, no. 2 (2021): 162–77. Vol 3 No. 2, 2021 <https://doi.org/10.34010/rnlj.v3i2.5100>

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

³ Galih Puji Mulyono; Rizal Fatoni, "Demokrasi Sebagai Wujud Nilai-Nilai Sila Keempat Pancasila Dalam Pemilihan Umum Daerah Di Indonesia," *Citizenship Jurnal Pancasila Dan Kewarganegaraan* 7, no. 2 (2019): 97–107. <http://doi.org/10.25273/citizenship.v7i2.2257>

⁴ M Muslih, "Idealitas Penguatan Kewenangan DPD RI Dalam Perspektif Ketatanegaraan Indonesia Yang Dinamis*," *Wajah Hukum* 3, no. 2 (2019): 141, <https://doi.org/10.33087/wjh.v3i2.72>.

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.

foundation of the nation, is translated into the 1945 Constitution, which functions as a form of social contract that binds citizens together and defines the state's character. The close relationship between Pancasila and the Constitution underscores the Constitution's critical role in actualizing Pancasila's objectives within the legal system.⁷

One notable case that has drawn significant attention from legal experts and observers is that of Grandma Asyani, who was sentenced to one year in prison for stealing seven teak logs, which she intended to use for a chair. Six years after this incident, a similar case involving Grandma Minah underscored the ongoing issues within the legal system. Grandma Asyani's case, which took place in Situbondo, East Java, between 2014 and 2015, involved not only Asyani but also her son-in-law, Ruslan, a carpenter named Cipto, and a driver named Abdussalam. All were charged under Article 12 in conjunction with Article 83 of the 2013 Illegal Logging Law, facing a potential five-year prison sentence for illegal logging.

Despite the charges, Grandma Asyani consistently testified that the teak logs in question were planted by her late husband on their own land. The evidence presented by both the prosecution and the defense indicated that the wood indeed belonged to her. However, what raised concern was the decision to charge her under the Illegal Logging Law, rather than under Article 362 of the Criminal Code, which pertains to theft.

Asep Warlan Yusuf, a professor of law at Parahyangan Catholic University (UNPAR) in Bandung, criticized the application of the Illegal Logging Law in this case. He argued that it was inappropriate because Grandma Asyani was neither transporting the timber in an organized manner nor in large quantities, which contradicted the intent of the law. Similarly, Arsul Sani, a member of the Indonesian House of Representatives Commission III, remarked that the charges lacked a sense of social justice. He noted that the severity of the charges did not align with the minor nature of her offense—stealing only seven logs. Sani emphasized that in such cases, both the prosecution and the judiciary should adopt a more socially just approach, grounded in retributive justice.⁸

In the case of Grandma Asyani, it becomes evident that the legal charges appear forced. The initial stage of criminal cases, beginning with the police, investigators, and prosecutors, plays a crucial role in law enforcement, serving as the foundation of justice. Therefore, it is imperative that investigators and prosecutors are competent, intelligent, professional, and possess integrity, coupled with a genuine concern for justice. The system must avoid presenting cases in court that appear contrived, such as those mentioned above, which only serve to tarnish the credibility of law enforcement. While adherence to the letter of the law and legal procedure is vital, it must not come at the expense of justice and the broader utility of the legal system.

Grandma Asyani's case is but a small illustration of the flaws in Indonesia's legal system. The analogy of a double-edged knife, where the law is sharp downward but blunt upward, remains an apt critique of the country's legal enforcement. For instance, consider the unresolved Century Bank scandal, which starkly contrasts with Grandma Asyani's case. The Century Bank case, known nationally and internationally, remains unresolved, despite the significant public and governmental interest in the matter.

On June 16, 2014, prosecutors charged Budi Mulya with 17 years in prison and an 800 million IDR fine for abusing his authority by unlawfully designating Century Bank as a failed

⁷ Supriyono, Supriyono, Vavirutus Sholichah, and Anang Dony Irawan. "Urgensi Pemenuhan Hak-Hak Konstitusional Warga Negara Era Pandemi Covid-19 di Indonesia." *Jurnal Ilmiah Hukum dan Hak Asasi Manusia* 1, no. 2 (2022): 55-66.

⁸ Sindonews, *Kasus Nenek Asyani Potret Buram Hukum*, <https://nasional.sindonews.com/berita/974906/149/kasus-nenek-asyani-potret-buram-hukum>, (accessed on Friday, June 18, 2021 at 13.58 WIB).

bank with systemic impact, resulting in state financial losses of 7 trillion IDR.⁹ In contrast, Robert Tantular, another central figure in the Century Bank case, received a mere four-year prison sentence and a 50 billion IDR fine or five months of subsidiary imprisonment—far lighter than the prosecutor's demands.

When compared to Grandma Asyani's relatively minor offense, the disparity in legal outcomes is striking. A fair and just legal system should aim to harmonize the three objectives of law: justice, utility, and legal certainty. These elements must work in tandem, not in isolation, to avoid privileging one or two at the expense of the others. Only by achieving this balance can Indonesia's legal system ensure true justice and public confidence.

According to Satjipto Rahardjo, the law must be bold enough to move beyond conventional methods and challenge the status quo.¹⁰ The legal text, which has been overly revered and prioritized, often renders the law rigid and ineffective, preventing the attainment of the three primary legal objectives: justice, certainty, and expediency. While legal certainty is indeed a key objective, it should not overshadow the pursuit of justice and the law's practical utility. This perspective aligns with the principles of progressive legal theory, which asserts that law exists to serve humanity, not the other way around. This idea is also in harmony with the ideology of Pancasila, the foundational philosophy of Indonesia.

The distinctive nature of Indonesian law is rooted in the deep exploration of the values of the Indonesian people, values that were respected by the founding fathers of the nation and have shaped various aspects of life, including legal philosophy. Among the values central to Pancasila is justice, which is explicitly stated in the second and fifth precepts. These precepts are closely intertwined with the other principles of Pancasila, such as the divine guidance found in the first precept.¹¹ Pancasila also embodies a legal concept known as responsive law, which sees law as a tool to address societal needs and reflect the aspirations of the people.¹² Nonet and Selznick assert that, in modern society, the rule of law serves as a safeguard against authoritarianism, contrasting with the "rule of men" characteristic of premodern societies.¹³

This paper seeks to delve deeper into the correlation between the conception of *Negara Hukum Pancasila* (Pancasila as a state of law), the Indonesian legal system, and the pursuit of justice. The concept of justice within Pancasila aligns with broader legal objectives, all of which ultimately aim to achieve justice as the highest goal.

B. Discussion

1. Research Result

a. State of Pancasila Law

Sjachran Basah argues that a state governed by Pancasila is one of prosperity, grounded in laws that reflect Pancasila as both the foundation of the state and the source of all legal norms, while firmly rejecting absolutism in all its forms.¹⁴ Regarding Indonesia's state of law, there

⁹Bbc, *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).

¹⁰ Aulia, M. Zulfa. "Hukum Progresif dari Satjipto Rahardjo: Riwayat, Urgensi, dan Relevansi." *Undang: Jurnal Hukum* 1, no. 1 (2018): 159-185. <https://doi.org/10.22437/ujh.1.1.159-185>

¹¹ Somadiyono, Sigit. "Perbandingan Sistem Hukum Antara Indonesia dan Malaysia." *Wajah Hukum* 4, no. 2 (2020): 414-420. <http://dx.doi.org/10.33087/wjh.v4i2.243>

¹² Philippe Nonet and Philip Selznick, *Law and Society Transition: Toward Responsive Law*, dalam Satya Arinanto, "Politik Hukum 2", Kumpulan Makalah Kuliah Politik Hukum, Progrm Pascasarjana FH UI (Jakarta: 2001) : 6

¹³ Robert.A.Kagan, *Introduction to Transaction Edition*, dalam Philippe Nonet dan Philip Selznick, *Law and Society in Transition Towards Responsive Law*, (New Jersey:Transcation Publishers,2001) : 6

¹⁴ Sjachran Basah, *Legal Protection of State Administrative Acts*, (Publisher: Alumni, Bandung, 1982) : 148.

are six formal elements:¹⁵

1. Pancasila as the source of all legal norms;
2. The highest authority is vested in the People's Consultative Assembly (*MPR*);
3. Government operates under a constitutional framework;
4. Judicial power is independent, free from government influence;
5. All citizens are equal before the law and the government, with a shared responsibility to uphold the law, without exception;
6. The law acts as a protector of democratic life and social justice.

Pancasila is recognized as the source of all legal norms in Indonesia because it forms the foundation of the state. Lawmakers are permitted to create laws and regulations; however, these must not contradict the values of Pancasila. Should any law conflict with these values, it becomes null and void. Moreover, legal norms must be created in a hierarchical structure, wherein lower-level laws must not contradict higher-level regulations, adhering to the principles of synchronization and harmonization.

The state of law under Pancasila not only safeguards the entire Indonesian nation and its citizens but also aims to promote public welfare and foster national education, as articulated in the Preamble of the 1945 Constitution. The founding fathers' interpretation of the rule of law provides a clear direction and solid foundation for national development and progress, in line with the ideals set forth in the Preamble of the 1945 Constitution, which embodies the character-strengthening values of Pancasila.¹⁶

According to Sukarto Marmosudjono, there are four key principles of the rule of law embedded within Pancasila and the 1945 Constitution:¹⁷

1. The Principle of Legal Order: This principle is reflected in two aspects. First, the structure of human life within society, the nation, and the state must be governed by clear legal provisions that ensure legal certainty. Second, all actions in societal, national, and state life must be conducted in accordance with these legal provisions.
2. The Principle of Legal Protection: This principle aims to provide security and peace for all citizens. It is articulated in the Preamble of the 1945 Constitution, which emphasizes the protection of the Indonesian people and their rights.
3. The Principle of Equal Rights and Obligations Before the Law: This principle ensures that all citizens are equal under the law, with the same rights and obligations.
4. The Principle of Legal Awareness: This principle emphasizes the importance of compliance with legal provisions and the collective responsibility to uphold and enforce the law.

b. Legal Purposes

Immanuel Kant introduced the concept of the rule of law (*Rechtsstaat*) in a narrow sense, where the state primarily functions to protect individual rights, and state power is understood in a passive role, tasked with maintaining public order and security.¹⁸ This notion of the state as a minimal protector of individual rights is known as the "night-watchman state" (*Nachtwächterstaat*). Over time, this understanding evolved into the concept of the welfare state (*Wohlfahrtsstaat*), which expanded the role of the state beyond mere protection to actively

¹⁵ Padmo Wahjono, *The State of Indonesia on the Law*, (Publisher: Ghalia Indonesia, Jakarta, 1983) : 132.

¹⁶ Rian Sacipto, *Pembentukan Karakter Anti Korupsi Berlandaskan Ideologi Pancasila*, Jurnal Pancasila Volume 3 Nomor 1, 2022 (Universitas Gadjah Mada (UGM) : Yogyakarta) : 2

¹⁷ Hotma P. Sibuea, *Principles of the State of Law, Policy Regulations, General Principles of Good Governance*, (Publishers: Erlangga, Jakarta, 2010) : 4

¹⁸ Ramli, Ramli, Muhammad Afzal, and Gede Tusan Ardika. "Studi Kritis Terhadap Konsep Negara Hukum." *Media Keadilan: Jurnal Ilmu Hukum* 10, no. 2 (2019): 132-147. <https://doi.org/10.31764/jmk.v10i2.1969>

promoting the well-being of its citizens. The key features of a legal state include:¹⁹

1. Protection of human rights;
2. Separation of powers to ensure the protection of these rights;
3. Governance based on laws and regulations;
4. The presence of administrative courts for resolving disputes.

Sri Soemantri identified the most essential elements of a state governed by law (*Rechtsstaat*) as follows (Sri Soemantri, 1992, pp. 29-30):

1. The government, in carrying out its duties and obligations, must act in accordance with laws or regulations;
2. The guarantee of human rights for all citizens;
3. The separation of powers;
4. Judicial oversight (*rechterlijke controle*) to ensure accountability.

For Indonesia, the concept of the rule of law is deeply rooted in its historical legal framework, which originates from the civil law system. Over time, this system has been significantly influenced by the Anglo-Saxon legal tradition. As a result, in addition to using the term *Rechtsstaat*²⁰—a direct translation of the concept of a state governed by law—the term rule of law is also frequently employed. Sunaryati Hartono, for instance, uses the terms interchangeably, as reflected in the title of her book “Rule of Law” and her explanations within it.

To establish a legal state that ensures justice for all citizens, it is essential that the rule of law in Indonesia is applied in a material sense.²¹ This is constitutionally recognized in Article 1, Paragraph (3) of the 1945 Constitution following the third amendment. According to Jimly Asshiddiqie, the foundational principles of a legal state, particularly concerning the independence and impartiality of the judiciary, are as follows: first, the state must be governed by law; second, the government must respect individual rights; and third, the judiciary must be free and impartial. From this perspective, it becomes clear that both the *Rechtsstaat* and the *rule of law* share fundamental principles, such as the principle of legality, the separation of powers, the independence of the judiciary, and the respect for human rights.²² These principles are aimed at preventing the state or government from engaging in abuse of power or acting arbitrarily and tyrannically.

The legal objectives of a country are shaped by the specific legal system it follows. One theory that aligns well with the current conditions of Indonesia is Gustav Radbruch’s theory of legal objectives. According to Radbruch, the three primary objectives of law are justice, legal certainty, and the practical utility of the law, all of which are integral to Indonesia’s pursuit of a just legal state.

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

c. Fair Law

Law, as an ideal, is intrinsically linked to the concept of justice, yet it cannot function effectively merely by adhering to abstract principles. Instead, the law requires human intervention to be operational. The effectiveness of legal ideology is influenced by the political will of policymakers, the conscience of law enforcers, and the awareness of the legal

¹⁹ S.F Marbun and Moh. Mahfud MD, *Principles of State Administrative Law*, (Publisher: Liberty, Yogyakarta, 1987) : 44

²⁰ Philip M. Hadjon, *People's Sovereignty, The State of Law and Human Rights*, A Collection of Writings In the Framework of 70 Years of Sri Soemantri Martosoewignyo, (Publisher: Media Pratama, Jakarta, 1996) : 30.

²¹ Sunaryati Hartono, *The Politics of Law Towards a National Legal System*, (Publisher: Alumni, Bandung, 1991) : 35.

²² Jimly Asshiddiqie, *The Idea of the State of Indonesian Law* (Papers. PDF Created with desk PDF Writer-Trial:<http://www.docudesk.com>, 2011) : 7

community. According to Satjipto Rahardjo, progressive law enforcement involves applying the law not merely as a literal interpretation of regulations, but by understanding its deeper meaning and spirit. This approach necessitates not only intellectual competence but also spiritual insight.

In practical terms, law enforcement should be guided by determination, empathy, dedication, and a commitment to addressing the suffering of the populace. Judges, in particular, must possess the courage to explore alternative solutions beyond conventional practices to achieve justice in their rulings. A progressive judge is one who, while liberated from rigid adherence to legal texts, remains focused on human welfare and well-being. Such judges are expected to apply the law not only in accordance with legal standards but also through reasonable and innovative methods. When faced with legal impasses, judges must seek creative and alternative approaches to ensure that justice is served.

The concept of a state governed by law is articulated differently across various countries. For example, Germany and the Netherlands use the term *Rechtsstaat*, which contrasts with the notion of a state based on power (*Machtstaat*).²³ The term *Rechtsstaat* parallels the concept of the Rule of Law, and similar terms are used in other languages: in France, it is *État de Droit*, in Spain, *Estado de Derecho*, and in Italy, *Stato di Diritto*. In English, the equivalent terms are "state according to law" or "rule of law."²⁴

The term *Rechtsstaat* became widely recognized in Europe during the 19th century as introduced by Philipus M. Hadjon.²⁵ The concept of a state governed by law was initially proposed by Plato and later endorsed by Aristotle. According to Aristotle, governance should be based on a just and moral framework rather than the arbitrary will of individuals.²⁶ He argued that a well-functioning state is one governed by a constitution and adheres to legal principles. Aristotle stated: "Constitutional rule in a state is closely connected with the question of whether it is better to be ruled by the best men or by the best laws, since a government in accordance with law, and thereby accepting the supremacy of law, is recognized by Aristotle as a mark of a good state and not merely an unfortunate necessity."²⁷ Aristotle states²⁸: "*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*".

The concept of *Rechtsstaat* in Continental Europe originally emerged from individualistic liberal philosophy. This individualistic aspect is particularly evident in the Continental European interpretation of the legal state. According to Philipus M. Hadjon, the concept of *Rechtsstaat* was born out of a struggle against absolutism, giving it a revolutionary character.²⁹ Hadjon outlines three key characteristics of a *Rechtsstaat*:³⁰

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.

²³ Pujiati, Si, and Ilyya Muhsin. "Aktualisasi Nilai Pancasila dalam Memperkuat Negara Hukum Indonesia Perspektif Sosiologis." *JPK (Jurnal Pancasila dan Kewarganegaraan)* 5, no. 2 (2020): 13-22, <https://10.24269/jpk.v5.n2.2020.pp13-22>

²⁴ A.R. Brewer Carias, *Judicial Review In Comparative Law*, (Publisher: Cambridge University Press, UK, 1984) : 7.

²⁵ Philip M. Hadjon, 1996, *Op.Cit* : 72.

²⁶ *Ibid*

²⁷ Ni'matul Huda, *State of Law and Democracy and Judicial Review*, (Publisher: UII Press, Yogyakarta, 2005) : 1

²⁸ George Sabini, *A History Of Political Theory*, Publisher: George G. Harrap & CO.ltd, London, 1995, p. 92. : Also Dahlan Thaib, *People's Sovereignty, State of Law and Human Rights*, Publisher: Kencana, Jakarta, 2005):22

²⁹ Philipus M. Hadjon, *Legal Protection for the People in Indonesia*, (Publisher: Bina Ilmu, Surabaya, 1987) : 72.

³⁰ Ni'matul Huda, 2011, *Op.Cit* : 9

3. Recognition and protection of the rights of freedom of the people.

The principles of the rule of law articulated by Jimly Asshiddiqie and Sukarto Marmosudjono align with the values enshrined in Pancasila. This alignment emphasizes that the law should not serve the interests of a select few but should protect the rights and interests of all Indonesian citizens. The 1945 Constitution of Indonesia is the primary legal instrument that enshrines and guarantees these rights.

The will of all Indonesian citizens is embodied in the 1945 Constitution, which represents a collective agreement among the people. Consequently, the 1945 Constitution stands as the highest legal authority, superseding all lower legal norms. All state and national practices must comply with the provisions of the 1945 Constitution, while also respecting the principle of One True Godhead, which is a fundamental ideal within Indonesian Pancasila law.

It is essential to recognize that the primary purpose of law is to establish order. Adherence to this order is a fundamental condition for maintaining a well-structured society. Besides fostering order, the law also aims to achieve justice. To realize this order, there must be a harmonious association within the community, reflecting the necessity of legal certainty. Legal certainty ensures that laws are implemented and enforced consistently, thereby contributing to a more orderly society. This, in turn, has a significant impact on societal well-being, not only fostering justice but also promoting the welfare of the Indonesian people.

Indonesia's national ideals, which align with the principles of a welfare state or material law, are grounded in Pancasila, specifically the fifth precept. This precept mandates the state to guarantee social justice for all Indonesian citizens. This obligation is clearly articulated in the Second Paragraph of the Preamble to the 1945 Constitution, which emphasizes justice and prosperity as essential for meeting the needs of the people, both physically and spiritually. Additionally, the Fourth Paragraph of the Preamble underscores the Indonesian state's role in protecting its people, promoting general welfare, advancing education, and contributing to global order based on independence, peace, and social justice. Moreover, Paragraph 33, Section 3 of the 1945 Constitution encapsulates the Pancasila ideal by stating: "The earth, water, and natural resources are controlled by the state and utilized for the greatest prosperity of the people."

The legal system in Indonesia serves as a mechanism for realizing and achieving the objectives of the state, ensuring that it functions as a servant to the people and promotes their welfare. Consequently, the Indonesian state is obligated to provide the best and most comprehensive service to its citizens. This reflects the characteristics of a welfare state aligned with the principles of Pancasila.

Pancasila, as the fundamental source of all legal norms in Indonesia, also serves as the ideological foundation of the nation and a guiding worldview. It plays a unifying role in the diverse Indonesian society. Notably, one of the central tenets of Pancasila is justice, as explicitly articulated in its fifth principle, which underscores the pursuit of justice for the Indonesian people. Legal justice is, therefore, a crucial discourse in the nation's life and governance.

However, delving into the purpose of the law presents significant challenges, as both defining the purpose and understanding the essence of law are complex. Law is integral to regulating and maintaining order within society, serving as an instrument to guide individual behavior towards achieving societal goals. To comprehend the purpose of the law, it is essential to have a clear understanding of its object of study, which requires examining the foundational principles and background of the legal framework. This understanding is crucial for facilitating clarity in the discussion of legal objectives and limitations.

Justice represents the ultimate goal within the framework of Pancasila.³¹ The first precept,

³¹ Marno, Marno, Herli Ismail Iskandar, Didi Suryadi, and Supriyanto Supriyanto. "Analisa Strategi Penerapan Nilai-Nilai Pancasila pada Perusahaan Penanaman Modal Asing." *Prosiding EMAS: Ekonomi Manajemen Akuntansi Kewirausahaan* 1, no. 1 (2021): 115-124.

which acknowledges the One True God, serves as the foundational principle and primary capital for Indonesian citizens in their national and state life. If every citizen adheres to the religious teachings recognized and sanctioned by the state, it is anticipated that they will become law-abiding, rule-respecting individuals with good character, as religious teachings inherently embody values of goodness. The second precept builds upon this foundation, aiming to achieve justice and civility. Once the principles of the first and second precepts are implemented, national unity and cohesion will be realized across all aspects of state life. This unity will foster a new constitutional order characterized by leadership that is just, wise, and considerate of the nation's welfare. Ultimately, this process aims to achieve social justice for all Indonesians. This represents the Pancasila legal thought pattern as understood by the author, where the initial key to achieving true justice is to be a righteous and godly individual. This aligns with the adage that moral values precede scientific understanding.

Such a holistic perspective provides visionary insight into how various components within a specific order are interconnected, whether among themselves or within the whole system. Progressive law is defined by its concern for humanity, extending beyond mere doctrinal considerations. Specifically, progressive law can be described as a law that serves the people and upholds justice. The concept of progressive law emphasizes that law exists not for its own sake but for a purpose beyond itself. Consequently, progressive law moves away from the tradition of analytical jurisprudence, or *rechtsdogmatiek*, which focuses solely on the internal analysis and systematic logic of legal regulations.

Pancasila serves as the primary foundation of the Indonesian legal system. It represents a legal perspective derived from an in-depth examination of the values inherent in the Indonesian nation, which were esteemed by the nation's founding fathers and have since shaped various aspects of national life, including the legal domain.³² The legal authority in Indonesia is rooted in Pancasila, which is considered the source of all legal sources. Sjachran Basah has characterized the Indonesian legal state as one based on Pancasila³³: "The concept of the legal state is inherently linked to the principle of legal sovereignty. This principle posits that ultimate power resides in the law, with no power existing beyond that which is derived from legal authority, which in this context is sourced from Pancasila as the origin of all legal norms."

C. Conclusion

Law as an ideal is closely related to the conceptualization of justice, but it cannot operate solely through abstract concepts. Law can only function with human intervention. The ideology of *bangsa sejahtera* (prosperous nation) already has a strong substantive judicial substance, but it requires the political will of policymakers. The effectiveness of law enforcement and the realization of a law-savvy society determine its success.

Enforcing the state law of Pancasila should go beyond mere words and black-and-white regulations; it should reflect the spirit and deeper meaning of the law. Law enforcement should not rely solely on intellectual intelligence but also on spiritual intelligence. In other words, law enforcement should be carried out with determination, empathy, dedication, and commitment to the nation's suffering, alongside the courage to explore unconventional approaches. This approach is essential for judges to achieve justice in their verdicts. The spirit of law enforcement should not only adhere to legal procedures but also align with reason and fairness. The values of Pancasila should be emphasized, as Pancasila encompasses these principles.

This is crucial because the application of the principle of seeking and realizing justice is a key parameter for assessing the effectiveness of the Indonesian legal system. The judiciary is a primary reflection of the law, and Indonesia must shift its legal enforcement paradigm. Rigidity

³² Sjachran Basah, *The Existence and Benchmarks of administrative justice agencies in Indonesia*, (Publisher: Almun, Bandung, 1985) : 1.

³³ *Ibid.*

in adhering strictly to the letter of the law may not effectively address the substantive goals of legal provisions. Additionally, many colonial regulations still remain in our statutory system. Legislators play an important role in this process; the stages and processes of legislation are integral to the fundamental structure of the Pancasila legal state, as they shape the spirit of the regulations. However, this should not be an excuse for failing to uphold the state's legal objectives, especially in a legal system based on Pancasila, which is deeply rooted in the concept of justice.

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