
| RESEARCH ARTICLE

The Value of Pancasila as an Ideological Based for the Development of the Legal System in Indonesia

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| ABSTRACT

Indonesia is a multicultural society with personal and group consciousness. Legal progress in Indonesia was influenced by cultural and community awareness. Indonesia is a multicultural culture with diverse legal awareness. Although Indonesia has many cultures, the equation should be applied to construct a legal union. Pancasila is the intellectual foundation for Indonesia's unitary state; hence, passing a national law must be founded on it and the 1945 Constitution as the supreme rule to achieve national unity. This study will show that the law enacted today does not reflect Pancasila and impressed liberalism because it is draughted and enforced on the basis of normative thinking rather than empirical thinking about the case and plural society. Methodology Pancasila and culture's role in legislation that impacts the other will be thoroughly examined in this article. Thus, for the welfare of the nation and public awareness of the law, this study will explain the need for systemic and continuous legal systems that reflect the Indonesian nation, namely Pancasila-based legislation.

| KEYWORDS

Development Act, the Public Awareness of Development, Value Pancasila.

| ARTICLE INFORMATION

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1. Introduction

Development is usually defined simply as an attempt to change a situation that is being experienced by the people or a society so that it becomes more profitable for the building. But it should also be understood that the people is a form of "development" that is more comprehensive. Development is a concept that was born out of a long conflict between the ideologies of Capitalism and Socialism.

The rivalry between capitalism and socialism took the form of a war of ideology and theory. The concept of development was officially leveled, with the main objective to curb socialism in the Third World, developmentalism or development Since it is used as an ideology that promises new hope to change the fate of millions of Third World people.

The concept of development is more a reflection of the Western paradigm of social change, the steps towards "higher modernity." Modernity is translated in the form of technology and economic growth following the footsteps of industrialized nations, which refers to the industrial revolution. Further development is intended to increase the standard of living, and it can only be reached through industrialization. The government, from this perspective, is to be the subject of its work¹

¹ Mansour Fakhri, Critical Review of the Green Revolution, in Hatta Sunanto et.al, *Development and Democratisation* , Yogyakarta: Laperia Pustaka Utama, 2000, page. 4.

Further modernization of hits Developmentalism. The word also connotes the modernization of secularization, industrialization, national unity, and mass participation. Modernization of the basic assumptions is a problem to be solved and must be transformed, like what was experienced during the European first. It uses a number of arguments. First, the metaphor of organism growth. Development understood evolution runs from traditional to modern. All the people departed from the same state, which is "traditional," and the Third World will change as experienced by the Western and eventually become "modern". Second, if the cause of the Protestant ethic of economic growth in the West, it is necessary to find a common factor for economic growth elsewhere, which is called the need for achievement (N Ach), which they describe as a prototype of public performance that is essentially a capitalist society.

In fact, modernization and Developmentalism are no different from capitalism.² This sort of concept of developmentalism cannot simply be adopted for implementation in Indonesia's Pancasila ideology, which has historical and cultural structures that differ from the ideology of liberal Western society. Therefore, if the concept is forced to remain in place, conflicts will be more difficult. The concept of development is inseparable from the ideological debate that aims to change something for the better.

The contemporary concept of Pancasila unites all of Indonesia's disparities; nevertheless, the country's legal system is based on Dutch culture, which is more individualistic and at odds with Pancasila's principles. Because it does not align with the goal of creating unity and eliminating differences in accordance with Pancasila, principles that lean towards individualism cause many injustices to occur and disagreements to arise regarding the legal system in Indonesia. This is true even when considering the adoption of legislation in Indonesia, which is influenced by cultural liberalism, capitalism, and other ideologies.

On the land of Indonesia's multiple, injustice and strife will ensue if Indonesian law does not adhere to the ideas of Pancasila. When Indonesia's legal system is developed in line with national ideals and state philosophy, all other aspects of the country's development will be managed in accordance with these ideals. This is the first step in creating a multi-dimensional development system and developing everything that exists in Indonesia.

2. The Development of the Law System in Indonesia

One of the most crucial areas for development to focus on is the law. From one perspective, the law serves as a social guardian, discouraging all sorts of anti-developmental deviant behaviour. On another, it has the power to effect social change, which it can use for social engineering purposes. Beyond these two purposes, the development of laws also seeks to provide people with legal protections in order to establish social order, comfort, and peace; these three things are necessary for the public to actively participate in the development process grounded in human rights principles.

The third purpose of the legislation, as it pertains to the development course, is to direct the country's various parts and pieces to work together to speed up its own progress. Achieving prosperity, peace, and social order via adhering to the principle of democracy throughout the law's evolution is the goal of the present law enforcement administration's development policy, which is founded on the rule of law and the protection of human rights.³

There are two sides to every positive change brought about by development: on the one hand, it helps to enhance people's lives, and on the other, it can make people's lives worse. Meaningful changes, both positive and negative, should be provided via development contribution. Developers must do this in order to ascertain the development pipeline design, which includes developing a risk assessment and a strategy to reduce that risk. When seen as its whole, legal development is an ongoing, methodical, and deliberate process towards a more advanced, wealthy, safe, and peaceful society, nation, or state based on equitable legal frameworks and principles.⁴

For Indonesia to adopt the common law system, which is written law, the process of creating new laws and statutory rules is integral to the country's legal development. As a result, legal writing should be a priority in Indonesia's legal development. The process by which the community's normative values are codified and made official (law making), the process by which those laws are put into practice (law enforcement), which helps the laws to grow and become more effective (living laws in action), and finally, the process by which society's legal awareness is built and developed, which helps the laws and legal system to gain social support in a broad sense (legal awareness). Put simply, the creation of legislation that comprehensively tackles:⁵

² *Ibid*

³ Lili Rasjidi and IB Wyasa Putra, *Law as a system*, (Bandung: Mandar Maju, 2003) page.178

⁴ Jimly Asshiddiqie, *National Law Development Agenda Globalization Ages*, (Jakarta: PT Balai Pustaka, 1998) page.28.

⁵ BPHN, *Thinking and National Legal System Framework and Long-Term Development Plan Law*, (Jakarta: BPHN, 1995/1996) page.19

1. The actual rules and processes,
2. The organisations and people working inside them, the legal system's mechanisms, and any ancillary infrastructures,
3. Legal literacy, including familiarity with the laws of the country and its legal traditions.

Once the new law is in place, its quality may be determined. In contrast to laws that have a positive impact, those that are bad will have negative outcomes. Since the study of law is both a normative science (*das sollen*) and a science of reality (*das sein*), it follows that justice will not be served if the content of legal norms does not match reality. The justice community occasionally finds itself at odds with the government's rule of law since societal norms do not always align with the laws passed at the national level. According to a report presented to the United Nations Congress VI/80 by law, the more a society's beliefs and values change, the more people will doubt the legitimacy of its judicial system. Because a law that doesn't take into account cultural norms will stray far from the goals of the anticipated progress, it is imperative that legal reform in Indonesia take into account community values, including customs, local knowledge, and culture.⁶

The existence of his mafia, corruption, and crimes within the state demonstrates that the country's legal system is still ineffective in preventing and punishing a wide range of crimes. This, in turn, has led to the destruction of many aspects of the country's economy, education, health, social life, culture, and more. As a result, the Pancasila system of law in Indonesia had to be refined to be suitable, efficient, and long-lasting, just like the country itself.

3. Pancasila as the Indonesian Development Philosophy

The national legal system of Indonesia is Pancasila. Pancasila should underpin all Indonesian law as the foundation of Negara Indonesia Pancasila and all Indonesian legislation. Pancasila means the position is at the highest level of law (*Grundnorm*) in Indonesia, but since Dutch law still governs Indonesia's independence, it provides guidelines and directions for each nation to formulate and improve laws. See that the law changes with society, so any modifications will always reflect Pancasila-based Indonesian objectives.

The rule of law and order in society and the state are necessary to fulfil Indonesia's Pancasila ideal of fairness and prosperity. All Indonesian laws should be founded on Pancasila for suitable conditions and courses. However, the creation and practice of law in Indonesia have many ups and downs due to globalisation, which has caused many new problems in the homeland, such as corruption, nepotism, and the influence of outside culture on social change. These developments will bring fresh vitality to society, which will affect Indonesian law. The Indonesian law has been changed to address current issues. Since Indonesia was a Dutch colony, Dutch inheritance law is still used, but the Indonesian tradition of "gotong royong" makes it difficult to implement.

Dutch Law has been employed since Indonesia's independence, making it difficult to customise Indonesian culture in accordance with Pancasila. The number of foreign cultures in Indonesia has destroyed Indonesia's culture, systems, customs, and values of law. Indonesian law violates Pancasila goals. If law heritage turkeys are liberal and individualistic, they can be translated into legislation in accordance with Pancasila's culture and values to improve law development in Indonesia. Pancasila, Indonesia's legal foundation, can defend against Western culture and foreign law adaptation issues. Pancasila, Indonesia's legal foundation, can defend against Western culture and foreign law adaptation issues. Therefore, Pancasila should maintain Indonesia's foundation despite new and legal issues.

The fundamental principles outlined in Pancasila serve as an example for the people of Indonesia in how they run their country. One of the most important principles of Pancasila is

1. Faith in God which implies that every Indonesian has and is blessed with the presence of God in their lives. This belief has a profound impact on people's lives and the nation's integrity. The deed ought to have a religious foundation.
2. Being a civilised and humanitarian nation, Indonesia does not discriminate based on race or ethnicity.
3. The unity of Indonesia signifies that all nations adhere to the principle of oneness, even though they have numerous differences. The country itself is paramount.
4. under a democratic system that values consultation and representation guided by wisdom and judgement, the people of Indonesia acknowledge the legitimacy of democratically elected leaders who act in the best interests of the nation.
5. The people of Indonesia must provide social justice for all by treating all citizens fairly, regardless of their background.

⁶ Sixth UN Congress on the Prevention of Crime and Treatment of Offenders (New York, Departement of International Economic and social Affairs, United Nations 1981). Page.45.

These five ideas form the basis of the Indonesian legal system. Divine, human, and societal values are the three pillars upon which Pancasila rests. All cultures in Indonesia have common values that should be considered when crafting and enforcing laws. This is based on three principles: first, that the law should be draughted by the justice of the Supreme Lord; second, that laws should be enacted in a way that upholds human rights in accordance with the souls of humanity; and third, that community values should be considered throughout the legislative process. Since the legislation lacks the three values of Pancasila, it cannot be considered Indonesian national law, and any attempt to amend or improve it must be taken into consideration.

Along with Pancasila, Indonesia likewise adheres to the forefathers' Trisakti ideas in national development. Developing and reforming Indonesian law in areas such as economics, society, culture, and new things all adhere to the trisakti principle. Some of the values of Trisakti are:

1. Being politically sovereign implies that Indonesia is entitled to play a role on the global stage.
2. Having its own economy allows Indonesia to confidently and profitably build patterns of economic cooperation with other countries in the industry.
3. Culture and personality, which implies that the Indonesian people should have a positive outlook, be morally evolved, and be individually respected.

"Trisakti principle" It is anticipated that Indonesia will engage in competition across all domains with both established and emerging nations. Trisakti, this idea needs to be implemented if the public recognises that liberal capitalism and public awareness are at odds with God's purposes in Pancasila; otherwise, the country's progress will be hindered by corrupt mafia members, drug dealers, and terrorists. Any study of Indonesian politics, economics, society, or culture would do well to look at Pancasila as a model for the evolution of legal philosophy.

According to Pancasila, a democratic political system should be established in Indonesia so as to uphold human dignity. This can be achieved by establishing a supreme power that is "of, by, and for" the people. To that end, either the ethical underpinnings of Pancasila's principles or the idea of citizenship in Pancasila IV's precepts must be worked out. The political system of Indonesia evolved progressively on the following moral principles: humanity, democracy, justice, unity, and divinity. Citizens' morality is essential to the upkeep of a respectable political order and the formulation of sound policies in Indonesia.

Pancasila is the economic growth philosophy based on Pancasila's moral value system. Specifically, God's moral and humanitarian ideals will form the basis of the economic system. Pancasila, please, Sila II's Pancasila, which creates a compassionate economic system. System of economics that recognises and honours humans for who they are—gods and mere mortals—in all their social and personal dimensions. Unlike liberalism and capitalism, which prioritise the interests of the few at the expense of the many, a Pancasila-based economic system considers the needs of all people. As opposed to the capitalist system, which prioritises profit over social wellbeing, this economic system takes a more humane approach. The focus of Pancasila moved away from man as an individual and from humanity as a whole. Consequently, economic growth and systemic stability should be built on human values and aimed at family well-being. Free competition is essential to economic growth; monopolies bring tyranny, injustice, hardship, and unhappiness to the general populace.

The economic development of Indonesia's economic system, called Economic Development, is based on Pancasila IV. Democratic Development Economics or Economic System Pancasila promotes economic growth and justice for Indonesians through political economy, which supports cooperatives, small businesses, and medium-sized enterprises. Thus, the economy is organised as a family-based cooperative effort that may generate concrete local government plans in the era of regional autonomy that are more independent and better able to create fair and equitable regional growth. Thus, the economy will empower local citizens economically, making it more just, democratic, transparent, and participatory. The economic function of protecting the public by passing Pancasila-valued legislation.

The idea of the social and cultural evolution of humanity is founded on Pancasila and its human character. Man's morality requires development from homo to human. Respect for social values and cultures across Indonesia is used to enhance social and cultural development and promote national unity. To make Indonesians feel valued and accepted, cultural and social life must be recognised and respected. Thus, social and cultural growth does not cause inequality, jealousy, prejudice, or injustice.

Sustainable development is a new way of thinking about Indonesia's national development. This way of thinking emphasises that while planning and implementing projects, it's important to respect the rights of the communities involved, the state's right to regulate national life, and individual human rights (section 2 Pancasila).

The cultural rights group can mediate disputes between the government and citizens' rights. This kind of thinking has the potential to dismantle Indonesia's societal and central planning structures that disregard the country's rich cultural diversity and pluralism. Accordingly, the period of regional autonomy will not bring about autonomous tribes but rather a merging of local/regional development with regional/national development (section 4 Pancasila). This will guarantee equity and balance (section 5 Pancasila), which will strengthen national unity and enable it to defend the Republic of Indonesia's sovereignty and territorial integrity (section 3 Pancasila). It is fair to say that the philosophy of Indonesia's development policy across all of its dimensions is interdependent on Pancasila's many values.

4. Development of Indonesian Law that is Systemic and Continuous.

As part of its efforts to achieve its national goals, the Indonesian government has been working to strengthen its legal foundation in order to better safeguard society (social defence) and promote public welfare (social welfare). Fulfilling national objectives (social welfare and social defence) through exercising people's sovereignty and fostering democracy rooted in Pancasila and the Constitution of 1945. All facets of national life are subject to the state's implementation through national development.⁷ A just and affluent society is the ultimate goal of national development efforts, which aim to improve people's quality of life. The Long Term Development Plan in Indonesia is the government's blueprint for improving the quality of life for all Indonesians and creating a more equitable and prosperous society. This blueprint includes the creation of national laws.

National legislation development in Indonesia is an integral aspect of the country's development system, which aspires to safeguard the people, the nation, and the entire Indonesian homeland; advance the common good; educate the populace; and, via its legal system, contribute to a global order based on liberty, enduring peace, and social justice. The amendments to the Republic of Indonesia's Constitution in 1945 have far-reaching consequences; hence, the creation of legal programs should be a top priority. Rules and regulations pertaining to the legal system must adhere to the system's essential principles and the constitution.⁸

The welfare and protection of the global community and participation in international order are systemically linked to national development and legal system development. Track accomplishments are inextricably linked to the Declaration of Independence and the 1945 Constitution. The government defines the national legal system as one that recognises a diversity of laws such as customary law, Islamic law, the law of another religion, law, and contemporary Western law and formulates various nodes into a single function between the various rules.⁹ Thus, the national legal system should consider social norms.

Indonesian law is crucial to growth. Regional disparities cause each region emphasise their system and ignore the need for sustained development of Pancasila's unity, which is vital to the nation. The law in Indonesia has yet to develop in line with expectations and a sense of justice because many laws are made only to protect individual and group interests and do not implement the values that live in a society like Pancasila, which is the philosophical reason that exists in Indonesian society.¹⁰

To realise the country's laws in a fair and democratic development of the legal system, every citizen must work to implement society's values. Within the framework of the Unitary Republic of Indonesia, this means establishing legislation that is aspirational, based on justice and truth and serves the interests of both the people and the nation. Thoroughly reviewing and adapting to new circumstances constitutes development for systemic law. Legislation should be replaced in the areas of business development and legal reform due to the fact that the colonial legacy does not align with society's progress because it lacks certainty, justice, and truth and disregards the values of public living in line with Pancasila.¹¹

Reforming the legal system is a shared development that no longer fits the nation state. Law is part of the legal system's "legal substance," "legal structure," and "legal culture." If applicable, legal system renewal and development must include reform of "the substance of the law," "legal structure," and "legal culture." All Indonesian laws are included in the development of reform laws. Reforming the system adjusts biological values of life in society, and Pancasila in Indonesian law is still liberal and imperfect. Development and reform of the legal system, including institutional, administrative, and managerial reforms of law enforcement institutions (investigation, prosecution, courts, implementing crime) and law enforcement cooperation. International, regional, and national.

⁷ Taken from GBHN, *Ketetapan MPR RI Nomor IV/MPR/1999*, Tahun 1999-2004, basic considerations, hal. 8-9.

⁸ Indonesian National Legislation Program Of 2004-2009.

⁹ *Ibid.*

¹⁰ Indonesian National Legislation Program of 2004-2009., *Ibid*

¹¹ Indonesian National Legislation Program of 2004-2009., *Ibid*

Cultural growth and cultur law reform in Indonesia are crucial to law enforcement since legal culture—people's beliefs, views, and attitudes—determines the law. If the culture of law is ignored, the current legal system will fail, and new crimes will result. The enforcement of criminal law in Indonesia requires cultural and behavioural professionals to improve legal culture in law enforcement, education, and the construction of individual behaviour and social area. Society and government, not just law.

Law reform in Indonesia should include legal culture, which is based on Pancasila awareness and ideals of law (*rechtidee*), morality, freedom of the individual and nation, humanity, peace, political ideals, and the destination country. It should reflect the value of life in society and Pancasila values.

The Indonesian legal culture is based on long-held ancestral values that the people of Indonesia hold in high regard. Law enforcement serves to protect society's interests and effectively oversees all elements of communal life. The ultimate goal of progress in the legal and other fields should be for society as a whole to become more involved in the enforcement of laws; however, this can only happen if individuals are fully informed about their legal rights and responsibilities.

6. Conclusion

Not only is the liberal legal tradition in Indonesia incompatible with Indonesian culture, but it is also very difficult to incorporate the idea of development into liberal legal theory. Eventually, liberal legal theory had to be adjusted to conform to the values held by Pancasila, the Indonesian national anthem. Indonesian legal liberalism The Dutch colonial past hinders Indonesian legal development; hence, it must be reformed to reflect Indonesian customs. Heritage turkeys and foreign legal systems are not in line with the many Indonesians, Pancasila, which will limit the growth of all areas if not done effectively. Indonesian law development is the priority of all development in Indonesia because it must be systematic, comprehensive, and sustainable in terms of materials, structure, and culture according to Pancasila values to achieve the nation's development goals that continue to improve.

The central argument of this article is that the current legal system, based on liberal principles, needs to be replaced with a system that more closely reflects the ideals held by Pancasila societies if they are to realise their full potential as a multidimensional system. The next step is for every Indonesian to understand that Pancasila is the blueprint for the country's legal system.

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