

Research Article

The Ideology Of Law: Embodying The Religiosity Of Pancasila In Indonesia
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ABSTRACT

The Pancasila ideology is positioned as the source of all sources of law in Indonesia. This meaning cannot be separated from the ideal value of the Indonesian Nation, which is God Almighty. This paper discusses the understanding of religious dimension of Pancasila as a legal norm, so that the applicable law can achieve its objectives. The normative and philosophical approach methods show that Pancasila has the roots of religiosity in its formation. The results of the study show that the strengthening of substantial ideological thinking based on social values that live in society and cannot be separated from the religious values of Pancasila becomes a place where law carries out its functions and roles in the life of the nation and state. In conclusion, the basic norms of the state, Pancasila, which have a religious dimension, are used as a benchmark in assessing the validity of the established regulations. The purpose of law is inseparable from the ultimate goal in the life of the nation and state, namely the values and philosophy of community life itself. The legal construction that puts aside Indonesian values in the context of ideology and the ideology of Pancasila law will result in the law losing its "spirit".

Key words: Legal Ideology; Religious Value; Legal Development

A. INTRODUCTION

The term Pancasila as the basis for the State was coined on June 1, 1945, as proposed by Ir. Soekarno in the first session of BPUPKI (Agency for Investigating Efforts for the Preparation of Indonesian Independence). His proposal of the State Foundation consisting of five principles or five precepts to be called Pancasila was approved in the BPUPKI session on June 1, 1945. As the State Foundation, Pancasila was formulated by BPUPKI and ratified as the State Foundation by PPKI (The Preparatory Committee for Indonesian Independence) on August 18, 1945. The legitimate formulation of Pancasila to be practiced is the one listed in the fourth paragraph

of the Preamble of the 1945 Constitution, which was approved by PPKI on August 18, 1945 (Latif, 2015). The preamble to the constitution is a very important part of it, particularly when viewed in retrospect. The last passage in the preamble summarizes what has been known as Pancasila (Smith, 2001; Chen 2010).

Understanding of Pancasila essentially refers to two main understandings, the understanding of Pancasila as a way of life and as the State Foundation. Furthermore, based on its basic understanding, Pancasila functions as a static and fundamental basis, dynamic guidance and bonds that can unite Indonesian people. Pancasila also has a constitutional juridical function with the main function

as the foundation of the state, and also as sociological, ethical and philosophical functions.

Pancasila is believed to have a function in its position as the basis of the state, as the source of all sources of law (a source of orderly law) of Indonesia although much of the course material about the position of Pancasila as the source of law at the undergraduate of law is often not well explained. The legal status of Pancasila, aside from being the state foundation, is also the source of all sources of the state law as stated in Article 2 of Law Number 10 of 2004 as amended by Law Number 12 of 2011 as amended by Law Number 15 of 2019 concerning Formation of Legislation. In conjunction with the 1945 Constitution (UUD 1945), Pancasila inspires the Preamble and the articles of the 1945 Constitution.

Pancasila inspires the Preamble and the articles of the 1945 Constitution. This means that the main ideas of the Preamble of the 1945 Constitution, the Pancasila precepts, constitute the spirit of the articles of the 1945 Constitution. In relation to the main function as the State Foundation stated in the 1945 Constitution, Pancasila has a high position as the ideal and way of life of the nation and the state of Indonesia.

It is a misconception to believe that Pancasila has been reflected in norms, such as religious norms, decency, courtesy, habits, and legal norms. Why? Because Pancasila only existed when Indonesia gained its independence. Meanwhile, Religion Norms, Decency Norms, Courtesy Norms and even Legal Norms had already existed long before Indonesia's independence. This misunderstanding is due to the assumption that Pancasila is the main foundation of

thinking. As a matter of fact, Pancasila is influenced by these values. Pancasila actually came to existence in BPUPKI (The Investigating Committee for Preparatory Work for Independence) session and was stipulated as the state foundation in PPKI (Preparatory Committee for Indonesian Independence) session. Pancasila was written in the Preamble of the Constitution, which was concreted in the Articles of the 1945 Constitution of the Republic of Indonesia. In understanding Pancasila, we need to understand the values that develop it.

The infiltration of other ideologies or a new one is a sign of the beginning of the destruction of the life of Indonesia, including its legal system. Consistency and a reliable commitment are required from all elements of the nation to remain firm in the ideology of the Pancasila, in order to develop Indonesia's identity as a united nation (Bombang et al., 2019). If law is a system of enforceable rules governing social relations and legislated by a political system, it might seem obvious that law is connected to ideology (Synnowich, 2019).

The potential illumination provided by ideology to understand the practice of law is located in a 'prevalent' notion of ideology premised on enduring conflict between opposing political outlooks, rather than a 'pure' notion of ideology used to express the conceptual branch of political science (Halpin, 2006). Indonesia's version of exceptionalism might best be described in an unabated conviction about the inviolable nature of Pancasila in national political life and beyond. This Pancasila delusion has gone further with the introduction of some legal efforts to prosecute any sacrileges against it (Iskandar, 2016).

In April 2010, the Constitutional Court issued a decision upholding the constitutionality of the law, accepting the reasoning that Pancasila, as embedded in the preamble of the Constitution, implied that Indonesia was a theistic state (Crouch, 2012). Therefore, proper legal development design is needed. One of the basic components of proper development design is the right understanding of the characteristics of the object of development. If referring to the understanding and concept of Pancasila as the fundamental of the state, which is the source of all sources of law in Indonesia, it is very important to note that the source of the formation of the state foundation (Pancasila) is from the thought of Indonesian people. Concepts are a standard unit by which itemizes a belief and, in particular, to render such belief into a system (Shorten, 2019).

Among other researches and articles on Pancasila, ideology and law, the focus of this research is interesting to study. The first article entitled *Strengthening Pancasila as National Ideology to Implement the Balancing Values to Improve Law's Application in Indonesia* only focuses on the concept of values in law, that is religious, moral, humanity, and social values (Huda, 2018). Second, an article entitled *The Dynamic Interpretation of Pancasila in Indonesian State Administration History: Finding Its Authentic Interpretation*, this article focuses on the authentic interpretation of Pancasila, including through cultural, moral, and unity approaches (Yunaldi, 2020). Third, an article entitled *Islamic Law In The Pancasila State, examines the Basic Idea of Islamic Law (sharia), growing and developing in a country with the Pancasila ideology* (Muslimin, 2012).

Fourth, the article entitled *The Pancasila Delusion*, focuses its article on the theme of the exceptionalism of Indonesian national life in relation to Pancasila, Politics and Law (Iskandar, 2016). And the last article entitled *Actualization of Pancasila in Indonesia Perspective As Progressive Legal Reform Law*, focuses on the re-actualization of the values of Pancasila as *The First Step in law reformation coping with the fading understanding, appreciation, and practice of Pancasila values in public life after the reformation era* (Putra, 2015). The study of the religiosity of Pancasila emerges as a concept of understanding law. In good law, an entity and belief values are needed to build a legal order.

It is true that a building must have a strong foundation because on that foundation the building lies. We also need to understand that a strong foundation must be built with small parts of the foundation structure. These small parts can be referred to as "elements" (the basic principles of a subject that you have to learn first). It is the elements that form the foundation of the state (state fundamental norms) that is later known as Pancasila. Then, are these elements in the form of values? The question arose when we asked about the function, objective, and ideal of law. What embodies the function, objective and ideal of law are all object of values. There are many small parts to be understood as the parts of the state foundation, especially in the field of law. Based on the background description above, the author examines the position of Pancasila ideology and its religious dimension in the development of Indonesian national law.

How to strengthen the law through religious values of Pancasila in relation to legal development in Indonesia? This is important to explain because there are differences between understanding ideology and understanding religion, between ideologies which are defined as political, action-orientated and intimately tied to modernity, and religions which are dismissed as otherworldly, conservative and anti-modern (Browsers, 2005).

B. RESEARCH METHOD

In writing this paper, the author tries to position religious values that form Pancasila as a source of law in relation to the development of national law in Indonesia by using normative and philosophical approaches. The function of legal science is to trace the principles of positive law.

The subject of this research is the concepts of thought in putting the values that form the foundations of Indonesian law, especially with regard to Indonesian Legal Ideology. The focus of this research is normative research conducted with a conceptual approach.

The data or material being reviewed is from literature study. In order to be able to provide a proper interpretation of the thoughts of the expert or figure, the concepts of thought in interpreting the value in Pancasila are examined according to their harmony with each other. Subsequently, a set of fundamental thoughts was established to find the right concept to answer the problems examined in this paper.

C. RESULT AND DISCUSSION

1. Understanding Pancasila as an Ideology

From Plato's Laws from common law to modern legal systems, preambles to constitutions have played an important role in law and policy making (Orgad, 2010). The question that sometimes arises is whether it is true that the values of Pancasila extracted from Indonesia itself as the way of life/role model of Indonesian people, which are then escalated to become a State Foundation that is judicially and formally established on August 18, 1945, one day after Indonesia's independence, are sourced from the nation's ideals and identity. If it is true, the understanding of Pancasila must be formed based on these values and principles. If ideology in this broader sense is as a battleground of ideas about democracy, culture, law and religion it is clear that ideology remains a crucial part of political contestation (Bourchier, 2019). As Cohen's method about law, ideologies, and technical constraints work together to map and remap power (Kapczynski, 2020).

Pancasila means the Five Principles or the five bases of the ideology of Indonesia contained in the Preamble of the 1945 Constitution of the Republic of Indonesia in the fourth paragraph, which reads: "to form a government of the state of Indonesia which protects all the people of Indonesia and its independence and the land that has been fought for, and to improve public welfare, to educate the life of the nation and to participate toward the establishment of a world order based on freedom, perpetual peace and social justice, therefore the independence of Indonesia is formulated into a constitution of the

Republic of Indonesia which is built into a sovereign state based on a belief in the One and Only God, just and civilized humanity, the unity of Indonesia, and democratic life led by wisdom of thoughts in deliberation amongst representatives of the people, and achieving social justice for all the people of Indonesia."

The provision of Article 1 of the Decree of the People's Consultative Assembly of the Republic of Indonesia Number XVIII/MPR/1998 Concerning the Revocation of the Decree of the People's Consultative Assembly of the Republic of Indonesia Number II/MPR/1978 Concerning the Guidelines for the Implementation and Practice of Pancasila (Ekaprasetia Pancakarsa) and Stipulation of the Affirmation of Pancasila as the State Foundation emphasizes that: "Pancasila as referred to in the Preamble to the 1945 Constitution is the foundation of the Unitary State of the Republic of Indonesia, which must be practiced consistently in state life".

Causally, before ratified, Pancasila became the philosophical basis of the state, whose values already existed and originated from Indonesian people themselves in the form of customs, culture and religious values. Then, the state founders promoted these values and formulated by a consensus agreement based on noble morals, including in the sessions of BPUPKI and PPKI, which finally on August 18, 1945 were declared valid by PPKI as the philosophical basis of the Republic of Indonesia (Maryanto, 2011). For Indonesian people, the state ideology, in the sense of state ideals or ideals as the basis for a theory or state system for all Indonesian people, is essentially a religious principle,

a source of derivation, motivation, and value, and in the state system, occupies a fundamental function of the state (Kaelan, 2015). Pancasila is an ideology. This means that Pancasila is a highly articulated, self-conscious belief and ritual system, aspiring to offer a unified answer to problems of social action (Swidler, 1986). This is set out in Pancasila (literally the Five Principles) in the preamble to the Constitution, and although it is a simple statement, it resulted from a complex and sophisticated appreciation of the ideological needs of the new nation (Colbran, 2010).

The term ideology refers to interrelated networks or systems of beliefs, values, and opinions held by individuals or groups that are usually (but not always) political. In general, an ideology contains assumptions about how the social and political world is and how it should be. "Ideology" has been used both in the sense of neutral (free) values, referring to almost all symbolic or abstract systems of meaning, and in a more critical sense to refer to the systematically distorted belief systems or ideas, which can hide or wrongly describe certain social interests or realities (Jost, & Andrews, 2011). It is this particular reality and social interest which was formulated in the Preamble of the 1945 Constitution of the Republic of Indonesia during the preparation for independence.

Ideologies in the most general sense are systems of ideas and beliefs that shape people's thoughts and behavior. The term ideology is used in many different ways. Some are used consistently, while others are controversial and contested. One way refers to belief and belief systems in general (Eidlin, 2014).

The most basic and commonly held view of ideology is that it is a system of multiple beliefs, ideas, values, principles, ethic, morals, goals, and so on, that overlap, shape, and reinforce one another (Beck, 2013). The values contain ideals, hopes, desires and necessities. Therefore, talking about values, we are actually talking about the ideal things, about things that are ideals, hopes, desires, and necessities. Talking about values means talking about *das sollen*, not *das sein*. We enter the spiritual domain of the field of normative, not cognitive, meaning; we enter the ideal world, not the real world. However, between *das sollen* and *das sein*, between the normative and cognitive meanings, and between the ideal world and the real world are interconnected or closely interrelated. It means that *das sollen* must be transformed into *das sein*. The ideal becomes real, which means that the normative means must be realized in daily actions. Good or ideal law is a law that contains rules that can be implemented (it has a correlation between *das sollen* and *das sein*). It is not only a legal ideal difficult to implement but thought of values. Good legal ideals must be applicable in society.

As Ross argues in *Law and Justice*, he maintains, that jurisprudential idealism rests on the assumption that there are two distinct worlds (or realms) with two corresponding modes of cognition, the world of time and space, which comprises the usual physical and psychological entities that we apprehend with the help of our senses, and the "world of ideas or validity", which comprises "various sets of absolutely valid normative ideas" (Spaak, 2015).

If the understanding of Pancasila is formed based on the values and wisdom of Indonesia, then the correlation is that legal development must also be conceptualized as part of the nation's values. In reality, many real forms of law are not conceptualized as part of the nation's values or even do not reflect national values. The values that form Pancasila are in fact only used as a theoretical study (*das sollen*), but in practice, they are not reflected at all as part of Indonesian national entities.

As the basis and ideology of the state, the material of Pancasila had existed before Indonesia existed. The formulation was formally realized in 1945. If there is a claim that Pancasila was formed on June 1, 1945, it is merely the naming of Pancasila, not the material of Pancasila. Pancasila as the philosophical basis of the state can be defined as an ideology of a state, which is humane, united, populist and just. Indonesian state leaders formulated Pancasila not to make it up, but that was the case. It was contemplated from the daily life of Indonesian people, which subsequently was indeed desired by the Indonesian people in the state life as the philosophical basis of the state. Thus, in addition to being the basis and ideology of the state, Pancasila is also the identity and personality of the Indonesian people (Kaelan, 2002).

Understanding of Pancasila essentially refers to two main understandings, first the understanding of Pancasila as a way of life and as the State Foundation. This concept focuses on the values that become the nation's way of life contained in Pancasila, not the understanding of Pancasila which creates static values, whose position is sometimes

considered higher than existing norms. As the foundation of the state, fundamental norms/basis of the state (staats fundamental norm), it is aspired that through Pancasila, Indonesia must be built based on the existing values as the national identity.

The nation's way of life has its position as the basis of Pancasila, which contains constructive values. These values reflect Indonesian people way of life. At this level, the nation's way of life is conceived of as the basis for building the *das sollen*. Meanwhile, as the basis of the Unitary State of the Republic of Indonesia, it is conceptualized as *das sollen*, a basic law that must be re-implemented as the ideals of the nation or can be referred to as the goals of the state/nation of Indonesia. Some literature also conceptualizes it as law in mind.

The difficulty in interpreting Indonesian law lies in the description of the national law itself. Indonesian legal theory is needed to provide a picture of Indonesian law as well as to explain the legal situation in society carefully. Providing a picture of Indonesian law actually means providing legal theorization that can build Indonesian legal concepts based on various data or content of Indonesia itself. Such theorization should be able to show what is desired, the direction of its orientation, and the concepts and doctrines of social politics, and others that we have (Dimiyati, 2010). The construction of the legal theory based on the original values of Indonesia is the main objective in understanding and shaping Indonesian legal theory itself.

Legal issues cannot be separated from the community in a certain region and time. This means that the law in Indonesia cannot be separated from

the people and territory of Indonesia and its historical journey. In connection with that, legal material in Indonesia must be explored and made from the values held by Indonesian society. These values can be in the form of legal awareness and ideals (*rechtsidee*), moral ideals, individual and nation's independence, humanity, social justice, peace, political ideals, nature, form and purpose of the state, social life, religion and the like (Tedjonagoro, 2008).

Legal positivism maintains a distinction between law as it is and law as it ought to be (Moore, 2020). Once the pure internal conceptualism of exclusive positivism has been abandoned, there is surely much to be said for the idea that the interpretive question should be resolved by asking which substantive theory attributes greater moral value both to law, understood as a general type of social institution, and to individual legal systems, meaning particular instances of that general type (Perry, 2002).

The formulation of Pancasila does not arise from mere logical-rational thought but is extracted from the cultural roots of Indonesian people themselves. Therefore, Soekarno only admitted himself as the one who compiled Pancasila because the values formulated in the Pancasila were taken from the existed values in the society. That is why, Pancasila is said to contain philosophical basic values (*philosophische grondslag*), constitute the soul of the nation (*volksgeist*) or national identity (*innerself of nation*), and become the way of life of the real Indonesian people. Thus, the values in Pancasila are the character of the nation, which makes Indonesia different from other nations.

2. Religiosity of Pancasila

Max Scheler states that the existed values are not so noble and high. There are actually some values that are higher and lower than others. According to the highness and lowness, the values can be grouped into the following four levels. First is enjoyment value. At this level, values are a series of pleasant and unpleasant values (*die westreihe des angenehmen und unaangelhment*), which cause people to be happy or to suffer (unpleasant). Second is life value. At this level, values are important values for life (*werte des vitalen fuhlens*) such as health, physical fitness, and common welfare. Third is psychological values. At this level, values are mental values (*geistige werte*), which are completely independent from physical conditions or the environment; consisting of beauty, truth, and pure knowledge achieved in philosophy. Fourt is spiritual values. At this level, there is a modality of holy and unholy values (*wermodalitat des heiligen ung unheiligen*). Such values consist mainly of personal values (Kaelan, 2002).

The spirituality value is anything useful for human spirituality. This spiritual value can be divided into: (a) the value of truth, which originates from human reason (*ratio, mind, creation*), (b) the value of beauty or aesthetic value, which originates from the element of feeling (*aesthetic, govel, feeling*), (c) the value of decency or moral value, which originates from the element of human will (*will, wollen, intention*), and (d) religious value, which is the highest and absolute spiritual value. This religious value is rooted in human belief or confidence (Darmodiharjo, 1995).

The values of Pancasila are classified as the spiritual values that recognize material and vital values. The values of Pancasila are classified as spiritual values that also recognize material and vital values. Thus, other values are complete and harmonious, material values, vital values, truth values, beauty or aesthetic values, good values or moral values, as well as systematic-hierarchical holiness values, which start from the precept of the belief in God Almighty as the "basis" up to the precept of social justice for all Indonesian people as the "goal" as a set of values that cannot be separated in Pancasila (Darmodiharjo, 1996).

Objectively, because these values concern all aspects of human life, there is a set of values that have a higher position or hierarchy compared to others. There are lower values and even there are absolute levels of values. However, this very much depends on the philosophy of the community or nation as a supporting subject to these values. For example, for the Indonesian people, religious values are the highest and absolute values. This means that the religious value is hierarchical above all existing values and cannot be justified based on human reason because at some level, certain values are above and beyond the capabilities of the human common sense. However, for a nation that embraces secular ideology, the highest value is in the human common sense. Thus, the divine value is under the authority of the human common sense.

The law must also be built based on living values, developing in Indonesia, like the Pancasila which was built by elements (values) native to Indonesia. The element as a value in Pancasila must

be reflected in the parts of the law. Way of life is the crystallization of values believed to be true, accurate, and useful. That is what gives rise to the determination to manifest in the form of attitudes, behavior, and deeds. The value as a result of contemplation about life that is considered the best for Indonesian people is Pancasila, both as a philosophy and a way of life.

In 1945 the Republic of Indonesia accepted the ideology of Pancasila as the basis of the independent state. In this ideology the role of religion is clearly defined as one of the five pillars of society (Steenbrink, 1993). Understanding the divine value is the main thing in forming the basic construction order of the state. We must remember that the spiritual spirit in the Preamble of the 1945 Constitution of the Republic of Indonesia as found in the history of the formation of the state foundation the third paragraph, which reads: "By the blessings of Almighty God and motivated by the noble desire to live a free national life, the people of Indonesia hereby declare their independence."

Is the real form of recognition of the Oneness of Allah SWT (God), who is believed to have given His grace to the Indonesian people in the context of forming the nation's order of independence, continued with the fourth paragraph, which is used as the state's ideals and foundation. This spiritual spirit is part of religious observance as an interpretation and the spirit contained in the first precept of Pancasila, "Belief in God Almighty (Ketuhanan Yang Maha Esa)". Concept of the one and only God, exploring the development of this concept which underpinned state policies on religion from the

Sukarno period onward (Ropi, 2007).

Since the initial phase until the era of industrialization, the values of Pancasila (from divinity, humanity, unity, consultation, to social justice) have always been consistently used as a way of life. Pancasila had existed before Sukarno explained it in the session of the formation of the Republic of Indonesia because Indonesian people had always known and considered God, living in the divine realm. Since a long time ago, Indonesian people have loved their motherland and nation and known a sense of nationality and humanity, as well as a sense of popular sovereignty and the ideals of social justice. Pancasila is said to be the way of life as it contains values, including the whole values in full, systematically and hierarchically arranged, starting from the divine value (as a core value, which then develops values, creativity, intention, and other ideals) to the value of social justice. This value is part of the philosophy (the philosophy of the nation), meaning that it is a benchmark to weigh and decide whether something is right or wrong, good or bad.

Sunaryati Hartono (2011) argues that it can be implied that the legal philosophy behind the preamble of the 1945 Constitution refers to several philosophical streams which are summarized into one, namely: a. Religiousism in the broadest sense as contained in the First Precept of Pancasila, that is "Belief in God Almighty"; b. That Man as God's creation is the same and therefore must have the same chance of life. This belief is expressed in the Second Precept, the Fairness of Humanity; c. In contrast to the understanding of the Natural Law, which is usually embraced in Europe and America, the

philosophy in the Preamble of the 1945 Constitution does not see humans as individuals who stand alone (atomistic), but a person who has been related, dependent or interacting with other humans since they are in their mother's womb. Thus, the legal philosophy of the 1945 Constitution always sees humans as creatures that are unlikely to live or develop alone, but as those who always need help and/or interaction with others for their own development.

Religiosity in Indonesia is vital in nation building within a multi-religious society (Makin, 2018). The religious dimension frees humanity from material domination by showing transcendence towards God Almighty through the spiritual meaning that will not run out of inspiration and even offer hope and perspective in the future. Pancasila can have great value for building relationships amongst religious believers in Indonesia (Wowor, 2016).

Meanwhile, the ethical dimension keeps people in their dignity and their fight for humanity and justice in the world. Religiosity means a great piety or devotion to religion. This can also be "the state of being religious or too religious", as in the Oxford Dictionary of English explaining that "religiosity as the noun is derived from the adjective religiose, indicating a behavior which is excessively religious". Religiosity originates from the term religious relating to religion or the nature of religion that is inherent in a person. In the realm of the religious truth, values are perceived as spiritual principles. As truth-seeking beings, humans can seek and find truth through religion, not only compartmentalized in the particular part being studied, in certain religions, but there will be universal

truth. This religiosity is the process of searching for a path of truth related to something sacred. This concept later becomes principal in Pancasila religiosity as the basis of the state.

This religious dimension means a pattern of attitudes and behaviors that are obedient in carrying out the teachings of the religion one professes. This pattern of behavior is manifested in the dimensions of belief or ideology. According to Sudjito (2007), Pancasila contains values that reach not only the religious dimension, but also 3 dimensions at once in legal science, the vertical dimension (Divinity), the horizontal dimension (community, nation, and state and nature), and personal dimensions (humanity).

This is in accordance with Sandu Frunz 's opinion explaining that there are differences in understanding private space and public space, but he still asserts that religion must not (and cannot) be chased away from the public space in as much as politics should not be alienated from the individual's daily choices (Boldea, 2017). Pancasila based state, which begins with the principle of the one and only God, not only allows, but also encourages, religion to inspire Indonesian Public life in humanitarianism, national unity, representative democracy and social justice (Hosen, 2005). This means that the position of belief in religion cannot be separated from the awareness of the community and neither can politics that requires a belief value to determine their choices, so all decisions taken are meaningful in accordance with the values believed by each individual as well as policy makers in government.

Political culture in Indonesia requires references to religion, which are used to construct the

narrative of Indonesia as a religious harmony state (Duile, 2020). Divine teachings are positioned as an integrative factor in relation to the political life of the state. Religion is a sacred thing whose power is not cultured and mystified but made as a guide (guidens). Religion is deliberated and involved as a discourse as well as a source of ethics, morals and law. This, in the political life, religious values will be dynamic.

3. Development of Law In Indonesia

Pancasila, arising from the mindset of the nation's founders, as a foundation in the state cannot implement by itself. It requires public awareness in carrying out the agreed ideology. It would be impossible to implement all ideas and ideals of the nation without the awareness in the community and in the stakeholders to ensure the implementation of the principles that originate from Pancasila. The practice of Pancasila can only be carried out if there is obedience from citizens, which is described through: (1) Legal Obedience; (2) Decency Obedience; (3) Religious Obedience; (4) Absolute or Natural Obedience (Latif, 2015).

Law will always be related to human life because in the 1945 Constitution of the Republic of Indonesia (preamble and body), the important part in the construction of national law that it must be able to realize a national paradigm, in the sense of being able to bring about change from a colonized nation to a new nation based on the ideals of the law. This is as stated by Satjipto Rahardjo that Constitution is the grand design of a society and new life in Indonesia (Raharjo, 1998). Pancasila is a Grundnorm or Basic Norm which is the source of all sources of law in

Indonesia, so the contents of the Preamble to the 1945 Constitution are the legal philosophy of Indonesia and the Body is the legal theory because it contains the positive legal foundation of Indonesia. The legal theory underlies positive legal philosophy in Indonesia (Darmodiharjo, & Shidarta, 2006). Constitutions—as fundamental instruments giving special visibility, legitimacy and stability to the shared framework of political life, entrench basic values, structure power, and confer rights (Gavison 2002; Thio, 2010).

It uses the Philosophy of Pancasila as a Grundnorm, the Philosophy of Law, continued through Legal Theory and the Principle of Law which contains ethical values of legal change. The values are then combined with the Legal Politics, which is a manifestation of the will of the State Administrative Government regarding the applicable law and the direction in which the law is developed, resulting in the Rule of Law (in Abstracto), which is an official rule made by the state authorities that binds everyone and can be enforced and maintained by the authorities. This will give birth to the Law Practice, the implementation and application of the law from the rules made on the basis of the law in a concrete event. The Preamble and Body of the Constitution of the Republic of Indonesia must be able to bring Indonesian people to a new legal order in accordance with the ideals of the nation's law. It is not only in the legal aspect, but also in all aspects and fields of reform towards the ideals.

Law reflects the ideology adopted by a country and this is mostly observed in the ideas or values contained in the legal products (Hangabei et al.,

2020). The ideals of Indonesian law are rooted in Pancasila, which was established by the Founding Fathers of the Republic of Indonesia as a philosophical foundation in structuring the basic framework and structure of state organizations as formulated in the 1945 Constitution. Pancasila is the way of life of the Indonesian people, which expresses the way Indonesian people views the relationship between humans and God, humans and their fellows, as well as humans and the universe with the core belief about the place of individual humans in society and the universe (Abdulgani, 1979).

Public awareness of Pancasila should always be followed by obedience in reality. Central to this model of obedience is the spirit of the state administrators. The good values of Pancasila and its derivatives of the 1945 Constitution are only nobleness on the paper without seriousness to flesh out these values in the administration of the state (Latif, 2015). As a normative belief, Pancasila is the basis for (reflective) judgments about what is valuable and what is important and not, as well as what constitutes a good and meaningful life - including legal life.

Every country needs a philosophical basis for the nation and state. Based on this philosophical basis, the vision, mission, and goals of the state are formulated. The philosophical basis of Indonesia is Pancasila (Hangabei et al., 2020). Related to this matter, Pancasila also provides boundaries, norms, and direction for a policy of the state implementation, also in terms of determining the policy of the state direction. Therefore, Pancasila is not only legal but also norms and direction for the implementation of

state policy (Yunaldi, 2020). If the rule of law is to be respected as the basis of justice, law itself has to be relevant to everyday life and accessible to all within its territorial reach (Teasdale, 2014).

If law is defined as the ideals and goals of the nation and state, then law politics is a direction that must be taken in the making and enforcement of laws in order to achieve the ideals and goals of the nation and state. Legal politics is an effort to make law an achievement process ideals and goals, and guide how to make laws that are correct according to the constitution and protect them through the politics of law (Mahfud MD, 2017).

In order for legal development to achieve its goals, the government's legal politics must pay attention stability in all fields related to national and international interests, and harmonized with elements in society, namely the religion, culture and customs of the Indonesian people. The goal is that the basic interests of the community are met. Development of national laws must be able to achieve the material and spiritual welfare of society and individuals and the formulated law is not just a collection of capital letters. The effectiveness of the law is not a problem stand alone, but closely related to other social problems, especially problem, the character building of the Indonesian nation. National law development cannot be separated from development of Indonesian society (Hamzani, Mukhidin, & Rahayu, 2018).

To achieve legal objectives, one aspect that has a significant role is the community's legal awareness factor. The existence of the community's legal awareness as an effort to find the legitimation of law is a consequence of various problems that arise

in its application. It arises because in reality, many people neglect the law, so the legal objectives are not achieved (Mas, 2014). The legal objective is part of the legal ideal, while the legal ideal is part of the national ideal.

Paul Scholten has formulated the notion of legal awareness as awareness or values contained in human beings about the law or about the law that is expected to exist. Scholten's emphasis lies on the values of the functions and roles to be carried out to achieve legal objectives (Ali, 1998). Legal awareness is abstract values and conceptions found in human beings, harmony between the order and the desired or appropriate peace. As a positivistic interpretation of Montesquieu's "bouche de la loi. Reading Montesquieu in his historical context – England and France: judge-made law and parlementaire ideology (Schönfeld, 2008).

Thus, there is a close relationship between legal awareness and the values held by citizens. He explains that the birth of community legal awareness began from the existence of knowledge of the law. Then, the law is understood (lived) which will later be realized in the attitude of the citizens towards it. Thus, community legal awareness arises if the goals and values contained in the rules of law are intrinsically in accordance with the system of values adopted by the community.

The principle of law is rooted in the reality of society (real factor) and in the values chosen as a guideline by a common life (ideological factor). The function of the principle of law in general is to unite the real factors and ideological factors (Mertokusumo, 2014). This shows that between ideal

and real factors, there is an indisputable correlation. Pancasila formed from the values that exist in society can be realized well if the ideals of the law are in accordance with ideology because legal awareness is born in the similarity of the goals and values contained in the rules of law with the values shared by the people. Therefore, the source of all sources of law must also be interpreted as Pancasila as part of the life of Indonesian people.

In the context of the social control medium, the law is only a passive tool, but in its function as a "tool of social engineering", it must be able to more actively reorganize an existing order leading to a dream state. This last function leads to a positive order in accordance with the ideology (ideas) aspired. As the ideology of the nation/state of Indonesia, Pancasila is realized as the way of life of the Indonesians, the basis of the Unitary State of the Republic of Indonesia, and the purpose of the state/nation. The understanding of the concept is divided into three important parts; the first is the way of the Indonesian people; the second is the two foundations of the Unitary State of the Republic of Indonesia; and the third is the objective of the state/nation of Indonesia.

Therefore, for Indonesians, as a society which holds the philosophy of Pancasila, those values are the values of Pancasila (Adawiyah, & Rozah, 2020). Manifestations of the Pancasila ideology are elaborated in the legal ideals of the Pancasila which function as the foundation and direction of the establishment and development of national law. The legal ideals of the Pancasila are interpreted as rules of the community behavior that are rooted in the

ideas, feeling, intention, creativity and thoughts of the people themselves. In this regard, there are three elements, justice, efficacy and legal certainty.

Law is formulated from basic legal norms or basic norms while the Ideology contains values and ideas. Therefore, the law, which is based on the ideology, will contain values because the norms are an embodiment of values and are also the source of the norms. Values are considered to have normative characteristics, meaning that values contain expectations, ideals, and a necessity that they have an ideal nature (*das sollen*). Values are manifested in the form of norms as the basis for humans to act.

In an effort to ground Pancasila from the realm of ideality to the realm of reality, it is necessary to live up to the state's original nature as ordered and exemplified by the founders of the nation. The contextualization of the values of Pancasila must begin by refreshing the understanding of Pancasila which relates to the dynamics of nationalism in Indonesia. As an open ideology, Indonesian people are entitled to interpret Pancasila to the widest to take the core of it to be practiced in the life of society, nation and state. The contextualization of the values contained in the five basic principles of the state is needed so that Pancasila always becomes the living ideology, an ideology that is always alive and applicable in all times.

According to Constitutional Court Decision of the Republic of Indonesia No.46/PUU-XIV/2016, Pancasila is the "source of all sources of law" and that the first and highest principle of Pancasila is Belief in the One and Only God, it followed that Indonesian laws "must not conflict with the values,

norms and laws of God". The Constitutional Court's validation of the blasphemy law helps transform Indonesia into an overtly religious state and pave the way for greater state involvement in enforcing moral norms based both on Islamic values and a conservative reading of indigenous culture (Bourchier, 2019).

All measures of truth and justice are controlled through the values of the Belief in God Almighty, so when the norms of life are formed and refer to the divine value (religiosity), the law that is formed and developed through the values of the Pancasila can be practiced and accounted for to God Almighty. The orientation of all activities and components of the nation is not only an outer fulfillment, but also a part of spiritual needs. The development of law by humans must be oriented to the beliefs and blessings of God Almighty, not solely to the interests of certain individuals or groups, so that liberal and secular patterns cannot be accepted and developed as the main element for legal development in Indonesia.

D. CONCLUSION

Construction of legal strengthening in Indonesia is laid on the foundation of the religiosity of Pancasila. Legal development is based on the aspect of stability in all fields relating to national and international interests, and is aligned with elements of society, namely religion, culture and customs.

In essence, the law formulated based on Pancasila takes the final form of presenting justice which has an ideological framework of thinking in Indonesia. The strengthening of substantial ideological thinking based on social values that live in

society and is inseparable from the religious values of Pancasila becomes a place where the law carries out its functions and roles in the life of the nation and state. This religious value is compulsory. It is an idea (ideal) that provides guidance or measure for humans in their relationships with God Almighty. The conception of Pancasila religiosity is built through the belief in spiritual values as the root of the Pancasila value system as set out in the First Precept: the Belief in God Almighty, which becomes the core value to interpret the whole life of the nation and state. The behavior based on the Belief in God Almighty will lead to the values of goodness and truth.

The purpose of law cannot be separated from the ultimate goal of the state and community life inseparable from the values and philosophy of life of the community itself. The legal construction excluding Indonesian values in the context of the ideology and legal ideals of the Pancasila will result in the law that loses its "spirit".

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