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# THE 2ND INTERNATIONAL CONFERENCE AND CALL FOR PAPER



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 Sultan Agung Islamic University

*Democracy In Digital Era : Law,  
 Governance, Sosial And Economic  
 Perspective In Asia, Australia And  
 Dutch*



September 23-24, 2020  
 Imam Assafel Buiding, Faculty of Law, Unissula  
 Kaligawe Rd KM 4 Semarang, Central Java

**THE 2<sup>ND</sup> INTERNATIONAL CONFERENCE AND CALL FOR PAPER**

**THEME : DEMOCRACY IN DIGITAL ERA: LAW, GOVERNANCE, SOCIAL AND ECONOMIC PERSPECTIVE IN ASIA, AUSTRALIA AND DUTCH**

**Keywords:** *Digital Media, Political and Governance Institutions, Electoral Processes, People Representation, Digital Disinformation, Democracy, Digital Economic, Social issue*



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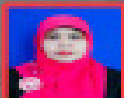
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1. To exchange and discuss views on the most important issues on Democracy in Digital Era: Law, Governance, Social and Economic Perspective in Asia, Australia and Dutch and its consequences to Law in countries.
2. To discuss the challenges and practical aspect of Democracy and Governance in a Digital Era.

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# The 2<sup>nd</sup>

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## KATA PENGANTAR

*Bismillahirrohmanirrohim*

*Assalamu'alaikum Wr. Wb.*

Puji syukur kehadiran Allah S.W.T, Tuhan Semesta Alam Yang Maha Esa. Alhamdulillah, sebagai ucapan syukur kehadiran Allah Subhanahu Wata'ala kami dapat menyelenggarakan The 6nd Proceeding International Conference And Call Paper dengan tema "*Democracy In Digital Era : Law, Governance, Sosial And Economic Perspective In Asia, Australia And Dutch*" terselenggara dengan baik. Pemilihan tema tersebut dipilih karena pada era searang ini kita dihadapkan dengan era industri 4.0, dimana para kandidat doktor dituntut untuk bisa menyesuaikan dengan perkembangan global dan meningkatkan kompetensi keilmuan serta kemampuan.

Pada seminar ini telah dipresentasikan hasil penelitian dosen dan mahasiswa yang diikuti oleh peneliti-peneliti dari berbagai universitas yang telah membahas berbagai keilmuan Hukum dan Humaniora.

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## Revitalization Pancasila In Law Enforcement Of Justice

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### Abstract

*The purpose of this writing is to find out and analyze the Revitalization of Pancasila in the enforcement of justice in Indonesia which is a Grundnorm from the State of Indonesia which is a source of material law or a source of legal content from written law which includes, among other things, laws and regulations in Indonesia. juridical normative by using literature law materials. The results of the research obtained include, among others, the revitalization of the values of Pancasila is carried out on the basis of adjusting the ideals of law originating from Pancasila with the application of law enforcement which aims to obtain justice that focuses on the balance between the rights and obligations of the individual community and the legal community. The noble values of Pancasila which are contained in each Pancasila principle can clearly describe the ideals of the Indonesian people.*

**Keywords :** *Justice; Law Enforcement; Revitalization of Pancasila;*

### A. INTRODUCTION

Amendments to the 1945 Constitution, especially after the fourth amendment, reinforce the concept of state law and are set forth in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which reads: “The State of Indonesia is a constitutional state”. State law in question is a state that places law as commander in regulating the life of the Indonesian people.<sup>4</sup>

The Indonesian nation is known as a great and sovereign nation, has a monumental work for the nation, and must be the pride of the nation, which is the result of thoughts on the principle of nationality and state life, namely Pancasila. The basic principles of society, nation and state that can overcome all the problems of society, nation and state are as stated in the Pancasila precepts, which of course cannot be separated from the destiny determined by God Almighty which has been carved by the Indonesian people. history with its own cultural work. The philosophy of Pancasila which is the core of the great works of the nation in the life of society, nation and state which should be the work of the nation must be upheld, in line with the thinkers of the great nations of the world, such as liberalism, communism, socialism, and other life philosophies. as well as practiced in the life of society, nation and state by the Indonesian people.<sup>5</sup>

1. Faculty of Law, Sultan Agung Islamic University, Central Java, Indonesia

2. Faculty of Law, Sultan Agung Islamic University, Central Java, Indonesia

3. Faculty of Law, Sultan Agung Islamic University, Central Java, Indonesia

4. Muhammad Yahya Selma , *Reconstruction o f Principles o f Legality In Criminal Law Based o n Justice Value o f Pancasila* , Journal of Law Reform , Volume IV No. September 3-December 2017, pp. 305-312

5. Dini Amalia Fitri, Pancasila as a Legal Science Paradigm, *International Journal of Law Reconstruction* , Volume 3, Issue 11, September 2019, pp. 123-133

Pancasila, as a philosophy of the nation's life view, should be reflected in the principles of values and norms of life in the nation, state and culture. Pancasila as the basis of the state is the philosophy of the state of the Indonesian nation which is the main foundation of all the administration systems of the Indonesian state. Law as a state product cannot be separated from the philosophy of the country. In this view, Indonesian legal philosophy cannot be separated from the foundation of the Indonesian state, namely Pancasila.

The rule of law of Pancasila which is based on the principle of kinship means that Indonesia prioritizes the common people, but the dignity of humans as individuals is still respected, and our paradigm of a rule of law serves as a protector, namely the enforcement of democracy, including democratization of law, social justice and human morality.<sup>6</sup>

The revitalization of Pancasila in the life of the community, nation and state must be carried out immediately with commitment and consistency. Educational institutions and government agencies must apply the values of Pancasila so that they can be a light and a guide for the achievement of the goals of the Indonesian nation. The state hopes that there will be fundamental changes so that our people, nation and state will return to their identity as a great nation with the Pancasila ideology which maintains a balance between the realization of the values of justice, humanity, and legal certainty in the context of realizing law or based on human rights. realizing social justice for all.<sup>7</sup>

Revitalization of Pancasila values is carried out on the basis of the incompatibility between the noble ideals of Pancasila and the real conditions of law enforcement in today's life. The values of Pancasila which are contained in each Pancasila principle can clearly describe the ideals of the Indonesian people. The unstable political conditions in Indonesia must be used as an excuse to deepen the values of Pancasila. However, when political conditions begin to stabilize, what must be done is how to apply the values of Pancasila to create just legal conditions, this is what needs to be studied in depth<sup>8</sup>.

Pancasila is the basic relationship of the basic values which are the crystallization of various values that live in a society which is the soul of the nation (volksgeist) in the Indonesian people is the guiding star (leidstar) in the life of society, nation and state of Indonesia.<sup>9</sup>

The Indonesian people knew the term Pancasila long before Indonesia's independence. Pancasila is the ideology of the Indonesian nation. Literally Pancasila consists of two words, namely "Panca" which means five and "sila" which means the rules behind the behavior of a person or nation, behavior or actions in accordance with the manners which are used as the basis. Therefore, Pancasila means a series of five rules concerning the principles or principles guiding the behavior and actions of the Indonesian people. The five precepts then play a role as a way of life, beliefs, or ideals of the Indonesian nation which serve as the basis for making decisions on various problems faced by the Indonesian nation.

## B. RESEARCH METHODS

The method used is a normative juridical approach<sup>10</sup>. a normative juridical approach. Namely, research that explains the provisions in the prevailing laws and regulations, related to the realities in the

6. Aji Sudarmaji, *Penal Mediation as an Alternative Settlement of Criminal Cases Emphasizing Restorative Justice*, Jurnal Pembaharuan Hukum, Volume VI No.3 September-December 2019, pp. 350-35

7. Budisidhabhiprodj o, *Relevance Of Justice Value In Legal Protection Of Debtor In The Political Law Of Bankruptcy*, Jurnal Akta, Volume 7 Issue 1, March 2020, pp.103-110

8. Sri Endah Wahyuningsih, *Model Pengembangan Asas Hukum Pidana Dalam KUHP Berbasis Nilai-Nilai KeTuhanan Yang Maha Esa*, Fastindo, Semarang, 2018, p.5.

9. Anis Mashdurohatun, *Constructing And Developing The Social Function Principlesin Utilising Copyright Products Related To The Fundamental Rights*, South East Asia Journal of Contemporary Business, Economics and Law, Vol. 7, Issue 4(Aug.), 2015.pp.88

10. Anis Mashdurohatun, Lily Mariam Nasution, *Copyright Transfer of Inheritance Based on Justice Value*, International Journal of Innovation, Creativity and Change. Volume 12, Issue 12, 2020,pp.1267.

field, then analyzed by comparing the demands of ideal values that exist in laws and regulations with the reality in the field.<sup>11</sup> This type of research is descriptive analysis, because the researcher wishes to describe or explain the subject and object of the research, which then analyzes and finally draws conclusions from the results of the study.<sup>12</sup> It is said to be descriptive because this research is expected to obtain a clear, detailed, and systematic picture, whereas it is said to be an analysis because the data obtained from library research and case data will be analyzed to solve problems in accordance with applicable legal provisions.

The purpose of this research is to find out and analyze the revitalization of Pancasila in the enforcement of justice in Indonesia which is a Groundnorm from the State of Indonesia which is a source of material law or a source of legal content from written law which includes, among others, laws and regulations in Indonesia

### C. RESEARCH RESULTS AND DISCUSSION

#### 1. Revitalization of Pancasila In Law Enforcement Based on Justice

Revitalization according to the big Indonesian dictionary means processes, methods and actions that revive something that was previously insufficient. Actually, revitalization means making something or action vital. While the word vital has a very important or very necessary meaning. In other words, revitalization means reviving vitality. So, revitalization in general is an attempt to make something important and necessary. Revitalizing Pancasila can be started by turning Pancasila back into public discourse, a public discourse. By making Pancasila a public discourse, as well as reassessment, reassessment of the meaning of Pancasila so far, to then produce new thoughts and meanings. Thus, making Pancasila a public discourse is a crucial initial stage for the re-development of Pancasila as an open ideology, which can be interpreted continuously, so that it remains relevant in the life of the Indonesian nation and state.<sup>13</sup>

Revitalization literally comes from the English word “Revitalization” which means power/life force. Meanwhile, the term revitalization of Pancasila, namely “empowerment of position, function of the role of Pancasila as the basis of the state, outlook on life, ideology, the source of the values of the Indonesian nation.”<sup>14</sup> The revitalization of Pancasila will make efforts to re-explore the philosophical norms of Pancasila to become a spirit and a foundation for the formation of moral guidance and become the basis for legal norms in Indonesia. Thus there is a close relationship between the process of national moral fostering and the support of the resulting legal products so that the Pancasila morality will be meaningful if it is supported by legal provisions based on the values of the Pancasila philosophy.

Mochtar Kusumaatmaja stated that the deepest meaning of a state based on law is: “... power is subject to the law and all people are equal before the law”. The concept of a rule of law certainly combines the understanding of people’s sovereignty with the rule of law as one unit. To explore the concept of a rule of law, it can basically be explained through two schools of thought, namely the concept of *Rechtsstaat* and the rule of law. To understand this, one can trace the history of the development of these two influential concepts. The concept of “*rechtsstaat*” comes from Germany and the concept “the rule of law” comes from England. The term “*Rechtsstaat*” became popular in Europe since the XIX century, although this thought has been around for a long time, while the term “the rule of law” became popular with the publication of a book

11. Ronny Hanitijo Soemitro, *Legal and Jurimetric Research Methodology*, Ghalia Indonesia, Jakarta, 1990, p. 33.

12. Mukti Fajar ND and Yulianto Achmad, *Dualism of Normative and Empirical Legal Research*, Student Library, Yogyakarta, 2010, p. 183

13. Satrijo Budiwibowo, *Revitalizing Pancasila and State Defense in Facing Global Challenges Through Multicultural-Based Learning*, *CITIZENSHIP: Pancasila and Citizenship Journal*, Vol. 4, No. 2, April 2016, pp. 565-585.

14. Abdullah Taufiq, *Reflections on the Revitalization of the Value of Pancasila as an Ideology in Eliminating Corruption Crimes*, *Universum*, Vol 9 No. 1 (2015), p. 50.

by Albert Vann Dicey in 1855 entitled Introduction to the Study of the Law of the Constitution.<sup>15</sup>

The implementation of law in everyday people's life has a very important meaning in line with the purpose of law which lies in the implementation of the law. Good law enforcement will create public order and welfare. The 1945 Constitution states that the Indonesian State is based on law (*rechtstaat*) and not based on mere power (*machtstaat*). The affirmation of the constitution implies that in the Republic of Indonesia which is based on Pancasila, law has a fundamental role and has a very strategic meaning for the development goals that have been, are being and will be implemented. In order to create a just and prosperous Indonesian society based on Pancasila and the 1945 Constitution, law enforcement must be properly maintained through a good legal system and institutions rooted in the values of national insight and national interests.

The values of Pancasila have a very important role in law enforcement so that they become the means of development and renewal of society that we hope for. Law can play a role as an object of development in order to realize the ideal law in accordance with the values that live in society. But also law can become the subject of development when the law has functioned in society as a driving force and safeguard for development and its results. This is where the important role of Pancasila is to be able to produce laws that are deeply rooted in people's behavior.

The foundation of law enforcement that can answer people's demands must be responsive law, otherwise the law will lose its spirit. Moral and justice are the spirit of law. Legal reform must look back at the moral order that lives, grows and develops in society. It is the time for the voices of the people from below to be acknowledged, by formulating various policies as outlined in the products of legal development.

The independence of Indonesia as stated in the proclamation of 17 August 1945 gave the meaning of the enactment of national law and the non-enactment of the colonial legal system. The new legal system is based on the spirituality of Pancasila, so the legal system can be called the Pancasila Legal System. The 1945 Constitution is a description of the state philosophy of Pancasila as a national ideology (*Weltanschauung*), the principle of state spirituality and national identity. Therefore it becomes the normative-philosophical-ideological principle of the nation's constitution, animates and underlies the cultural ideals and national political morals, constitutionally translated:

1. State sovereignty of the people (democracy: principle IV)
2. Unitary state, nation state (nation state, national insight and insight into the archipelago: principle III) are enforced as the Republic of Indonesia.
3. The state is based on law (*Rechtstaat*), the principle of law supremacy for justice and social justice, by all for all (precepts I-II-IV-V) as the constitutional state of Pancasila.
4. The state is based on the one and only Godhead according to the basis of just and facing humanity (precepts I-II) as the moral principle of the nationality of the Republic of Indonesia, is upheld as the culture and morals of human citizens and state politics of the Republic of Indonesia.
5. The state is based on the principle of kinship (the understanding of the unity of the state to protect all spilled blood of Indonesia and all Indonesian people. The state overcomes group understanding and individual understanding in principle III-IV-V) is enforced in the Pancasila economic system.<sup>16</sup>

15. Soko Wiyono, *Reactualization of Pancasila in National and State Life*, Wisnuwardhana University Malang Press, Malang, 2011, p. 65

16. HM Noor Syam, *Basic Pancasila of the Republic of Indonesia (Socio-Cultural, Philosophical and Constitutional Insights)*, 2nd edition, Pancasila Laboratory, Malang, 2000, p. 3

The constitutional normative-philosophical-ideological principles of the nation, animating and underpinning the cultural ideals and national political morals, are constitutionally translated as the obligation of all state institutions and national leadership to carry out this constitutional mandate. This is aimed at upholding just and civilized divine morality and humanity in Indonesia as a rule of law for the sake of the realization of the rule of law and social justice for all Indonesian people.

Pancasila as the basis of the state is the result of the agreement of the founding fathers who are often referred to as the “noble agreement” of the Indonesian nation. The Jakarta Charter is a crystallization of the culture of the Indonesian nation which is a source of inspiration and motivation for the founders of the nation to form a better independent state. Pancasila was born from the culture of the Indonesian nation, not from other countries. So that in essence Pancasila is a manifestation of the Indonesian nation that has grown in the Indonesian human soul and is then applied in the life of the nation and state.

In the course of Indonesia’s national history, the problem of Pancasila as the state ideology and way of life has often experienced ups and downs of development, but this is not caused by the weakness of the values contained therein. But more leads to inconsistencies in its application. All elements of the nation have never doubted the slightest truth of the values of Pancasila. History has proven that Pancasila as the basis of the state or as the state ideology is the most rational compromise and has historically been able to become a tool to unite the nation, when this nation is still in differences of primordial ties. Thus it can be said that Pancasila as the ideology of the state and the basis of the state is the noble value system of the Indonesian nation that is ultimate and definitive .<sup>17</sup>

All arrangements for organizing state life must refer to Pancasila. The basic values of Pancasila are  
:18

#### 1. Divine Value

The first precept is the principle of the One and Only Godhead, the Indonesian people declare their belief and devotion to the One God and therefore Indonesian people believe and believe in God Almighty in accordance with their respective religions and beliefs according to the basis of fair and human humanity. So that cooperation is created between adherents of different religions and beliefs towards the Trial of Religious Harmony, including internal religious harmony, harmony between religious communities, tolerance between religious communities and the government.

#### 2. Human values

The second precept is conformity with human nature. Only people who are aware that they are humans will be able to treat others as creatures of God Almighty. With an attitude of mutual respect for every human being, there will be equality, equality of rights and human obligations without distinction of ethnicity, religion, race and gender. Respect, mutual cooperation, tolerance, courtesy are some manifestations of upholding human values.

#### 3. The Value of Unity

Recognition of human values based on divinity is the initial capital for the creation of the unity of the Indonesian nation. An attitude that is able to place the interests of the Indonesian nation above

17. Zuhraeni , Revitalization of Pancasila in the Development of National Law in the Era of Globalization, Legal Institutions , Volume 7 Number 1 January 2012, pp. 51-66

18. Farida Sekti Pahlevi , Revitalization of Pancasila in Law Enforcement with Justice in Indonesia , Justicia Islamica , Vol 13, No 2 (2016), pp. 21-44



personal and group interests and develop Indonesian unity over Diversity in Diversity.

#### 4. Populist Value

Popular is the key word of the fourth precept. This means that the people have the highest position in the administration of the constitutional system of the Republic of Indonesia. State sovereignty is in the hands of the people, so all decisions are prioritized by deliberation to reach consensus.

#### 5. Value of Justice

The essence of the fifth principle is fair, that is, conformity to the essence of justice. The word fair can be interpreted as being impartial, giving what is not right, taking rights, being fair to oneself and others. The embodiment of social justice in social or social justice covers all Indonesian people. Justice in the social field mainly covers the fields of ideology, politics, law, economy, social, culture, defence and national security.

Pancasila as the foundation of the state philosophy as well as the philosophy of life of the Indonesian nation is essentially a systematic value. Therefore, as a philosophical foundation, the principles of Pancasila are a unitary, hierarchical and systematic aspect. This means that Pancasila is a philosophical system. Because it is a philosophical system, the five principles are inseparable and have their own meaning, and have a complete meaning. Pancasila as the philosophy of the nation and state of the Republic of Indonesia implies that in every aspect of the life of the nation, society and state must be based on the values of Divinity, Humanity, Unity, Democracy and Justice. Philosophical thinking about the state starts from the view that the state is a community of human life or social organization in legal life or legal society.<sup>19</sup>

Pancasila is also a source of material law or other sources of written law, namely jurisprudence and treaty law. In addition, Pancasila is also a source of material law or a source of unwritten law in the form of customary law and customary law. As long as the Basic Norms / Rules of a nation have not yet become the content of national law, during that time a nation-state building will face difficulties in various aspects of life and in due time the country will experience difficulties to develop. Therefore, whatever the reason and whatever the conditions, law in Indonesia must be enforced in accordance with the Pancasila Ideology.

Law as a norm has a specific characteristic, which is to protect, regulate, and provide balance in maintaining public interests. the legal regulations are obeyed according to their legal awareness. Of course, in the formation of a national law with a codification and a unification style, the community's need for law will be considered in addition to which legal system will be used as a reference.

## 2. A just rule of law based on Pancasila

The Pancasila state is a nationally just social state, which means that the state as an incarnation of man as the Almighty God, the natural nature of individuals and social beings aims to realize justice in living together (Social Justice). Social justice is based on and imbued with the essence of human justice as a civilized creature (second precept). Human beings are essentially just and civilized, which means that they must be fair to themselves, fair to their God, fair to others and society and fair to their natural environment.

In connection with the intended Social Justice, the view of justice in law literally has a narrow meaning, namely that what is in accordance with the law is considered fair while those who violate the law

19. Muhammad Chairul Huda , Strengthening Pancasila As National Ideology To Implement The Balancing Values To Improve Law's Application in Indonesia, Jurnal Reformasi Hukum , Volume V No. April 1-August 2018, pp. 1-12

are considered unfair. Throughout the world there are a number of obstacles that ordinary people face to get justice.<sup>20</sup> If there is a violation of the law, then the court must be carried out to restore justice.

The view of justice in national law comes from the basis of the state. Pancasila as the basis of the state or state philosophy ( filosofische grondslag ) has been maintained until now and is still considered important for the Indonesian state. Axiologically, the Indonesian nation is a supporter of the values of Pancasila (the subscriber of the values of Pancasila). The Indonesian nation that is devout, humane, united, human, and socially just.<sup>21</sup>

As a supporter of values, it is the Indonesian nation that appreciates, recognizes, and accepts Pancasila as a value. Recognition, appreciation, and acceptance of Pancasila as something of value will appear to reflect the attitudes, behavior and actions of the Indonesian people. If the recognition, acceptance or appreciation is reflected in the attitudes, behavior and actions of humans and the Indonesian nation, in this case at the same time it is the bearer of the attitude, behavior and actions of Indonesian people. Therefore Pancasila as the highest source of law is irrational and as rationality is the source of the national law of the Indonesian nation.

The view of justice in the national law of the Indonesian nation is focused on the basis of the state, namely Pancasila, where the fifth principle reads: “Social justice for all Indonesian people”. The problem now is whether what is called fair according to the conception of national law that is based on Pancasila.

To further elaborate on justice in the perspective of national law, there is an important discourse on justice and social justice. Fairness and justice are recognition and balanced treatment of rights and obligations.

This conception when connected with the second principle of Pancasila as the source of the national law of the Indonesian nation, in essence, instructs us to always carry out harmonious relations between individuals as individuals with other groups of individuals so as to create fair and civilized relationships.

Furthermore, if it is related to “Social Justice”, then that justice must be linked to social relations. Justice is an idealism in Pancasila created after Indonesia’s independence to create a strong atmosphere in which every human being can actually exercise his rights as citizens in all areas of life, namely Personal Justice, Social Justice. The state and its people must fulfill their obligations to one another. In the fifth principle of Pancasila, it consists of values representing the main goals of the state in life. Therefore the fifth principle consists of the values of justice so that the consequences must exist in social life and must include:

1. distributive justice, namely the relationship between the state and its citizens, in the sense that the state has the obligation to fulfill justice in the form of sharing justice, prosperity, assistance, subsidies and also opportunities in life based on rights and obligations.
  2. legal justice, is a relationship of justice between citizens and citizens , citizens are obliged to fulfill justice in the form of following the laws and regulations in force in the country.
  3. commutative justice, namely the reciprocal relationship of justice between one citizen and another.
- It is clear that the principle of justice is to be the basis of national unity. Justice is only possible in a democracy. <sup>22</sup>

20. Johny Khoesoema Hioe , Anis Mashdurohatun, Gunarto, Irwan Jasa Tarigan, Reconstruction Of Pretrial Institution Function In Supervising Investigator Authorization Based On Justice Value With Moderating Role Of Supply Chain Management, International Journal of Supply Chain Management , Vol. 9, No. 3, June 2020, pp. 613-319

21. Ferry Irawan Febriansyah, Justice Based on Pancasila (Philosophical and Ideological Basis of the Nation) , First Edition, Deepublish, Yogyakarta, 2016, p. 52

22. Yunie Herawati , Concept of Social Justice in the Fifth Precepts of Pancasila , Paradigm, Volume 18, Number 1, January 2014 , pp. 20-27



Social justice concerns the interests of society by itself, the social justice individual must set aside individual freedom for the benefit of other individuals. National law only regulates justice for all parties, therefore justice in the perspective of national law is justice that harmonizes or harmonizes general justice among some of the individual justice. In justice, it focuses more on the balance between individual rights of society and general obligations that exist within the legal community.

The rule of law based on Pancasila which belongs to Indonesia, aims to create a safe, peaceful, orderly and prosperous life order. The legal position of citizens in society is guaranteed by the state, so that a balance and harmony can be achieved between the interests of individuals and the interests of society at large. The Indonesian state is a constitutional state based on Pancasila which aims to achieve a just and prosperous, safe and secure society, not only to maintain public order, but broader than that, namely as the basis of thought and guidelines for the ethics and morals of the Indonesian nation.

The concept of a rule of law that applies in Indonesia, namely the rule of law of Pancasila, is not *rechtstaat* or the rule of law. This is because Pancasila is the main basis and source of law from all sources of law. Therefore, the rule of law in Indonesia can also be called the rule of law Pancasila. The conception of the Pancasila state law means a legal system built air-ity principles and rules or norms - norms contained or reflected in the values of Pancasila as the basis of society, nation and state. Indonesia which is based on Pancasila is not a religious state because it is not based on a particular religion, but it cannot be called a secular state like other concepts of a rule of law.<sup>23</sup>

The rule of law of Pancasila is a religious state that protects and facilitates the development of all religions that are adhered to by its people, as long as it does not violate the laws and regulations in Indonesia. The rule of law of Pancasila does not impose the will to embrace a religion, but provides freedom and protection to its citizens to embrace the religion or belief they believe. This is where the unique form of the rule of law Pancasila is compared to other concepts of rule of law.

Indonesia as a rule of law is inspired by the basic idea of *rechtsstaat* and the rule of law . This step was taken on the basis of the consideration that the constitutional state of the Republic of Indonesia is basically a constitutional state, meaning that in the constitutional state concept, Pancasila in essence also has elements contained in the *rechtsstaat* concept and in the rule of law concept. It cannot be denied that the concept of the rule of law of Pancasila which is owned by Indonesia cannot be separated from the concept of a mixed law state, namely *rechtsstaat* and rule of law.<sup>24</sup>

In the constitutional state of Pancasila, there is an assumption that humans are born in their relationship or existence with God Almighty, therefore the state is not formed because of an agreement or “dualistic *vertrag* “, but “By the grace of Allah the Almighty and driven by a noble desire, so that have a free national life ... ”. So the position of God in the constitutional state of Pancasila is one of the main elements and is even “ *causa prima* “.<sup>25</sup>

In terms of *stuf enbau des rechts theorie* (theory of legal leveling ) according to Prof. Hans Kelsen, then Pancasila has the position of Groundnorm (Basic Rules). Groundnorm is the highest rule , fundamental, and becomes the core (kern) of every rule of law in an ordered society, including the state, basically does not change but is relatively “eternal”. Groundnorm or it can also be called *Staatsgrundnorm* is above the Basic Law or Constitution. Meanwhile, the Basic Law or Constitution is the highest law in the national legal order

23. Ridwan HR, *State Administrative Law* , Raja Grafindo Persada, Jakarta, 2011, p. 1

24. Sri Endah Wahyuningsih, *The Implementation of Punishment Theories in the Verdict of Narcotics Case by Judge in Indonesia*, TEST Engineering and Management, ISSN 0193-4120 , Mach-April 2020, P 2797.

25. Ahmad Syafii Ma'arif, *Islam and Pancasila as the Foundation of the State, Study of Debate in the Constituent Assembly* , Revised Edition, Pustaka LP3ES Indonesia, Jakarta, 2006, p. 150

of a country. Therefore, Groundnorm is metayuridic in nature.<sup>26</sup>

The concept of the rule of law of Pancasila, in essence, has elements contained in the concepts of Rechtsstaat and Rule of Law. The principal difference lies in the philosophical foundation of the state, that the rule of law of Pancasila is based on the philosophy of Pancasila. Pancasila is the original philosophy of the Indonesian people and not a liberalistic philosophy. Pancasila as the national ideology provides basic provisions as the basis for the Indonesian legal system, including the foundation for a rule of law. This fact can be fully understood in the Preamble, Articles and Explanations of the 1945 Constitution before the amendment or the Preamble and the Articles of the 1945 Constitution after the amendment of the 1945 Constitution.

The concept of the Pancasila Rule of Law prioritizes human rights in shaping laws that prioritize the principles of justice based on Pancasila. The concept of the rule of law of Pancasila is a concept of a rule of law which contains the principles of the values of Pancasila which cannot be separated, constituting a complete unity. This is what is called the concept of a rule of law in Indonesia, namely the constitutional state of Pancasila.

## CONCLUSION

Revitalization of Pancasila in upholding justice in Indonesia which is a Groundnorm from the State of Indonesia which is a source of material law or a source of legal content from written law which includes, among other things, laws and regulations in Indonesia. The revitalization of Pancasila values is carried out on the basis of adjusting the ideals of law originating from Pancasila with the application of law enforcement aimed at obtaining justice that focuses on the balance between the rights and obligations of the individual community and the legal community. The noble values of Pancasila contained in each of the Pancasila principles can clearly describe the ideals of the Indonesian people. Revitalization of Pancasila values must be carried out on the basis of the incompatibility between the ideals of Pancasila and the real conditions of law enforcement in today's life. The values of Pancasila which are contained in each Pancasila principle can clearly describe the ideals of the nation.

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