

## **Integration of Pancasila Values in Criminal Law Reform: A Contextual Approach**

**Isti Muryani<sup>1)</sup> & Ira Alia Maerani<sup>2)</sup>**

<sup>1)</sup>Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, E-mail: [istimuryani@gmail.com](mailto:istimuryani@gmail.com)

<sup>2)</sup>Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, E-mail: [iraaliamarani@unissula.ac.id](mailto:iraaliamarani@unissula.ac.id)

**Abstract.** *The reform of Indonesia's criminal law must be deeply rooted in the nation's foundational values, namely Pancasila. Historically, the national penal system has been largely influenced by legal positivism, emphasizing formal legal certainty while neglecting substantive justice and culturally embedded values within Indonesian society. This study highlights the urgency of integrating Pancasila's principles into criminal law reform, promoting a system that is not only repressive but also just and contextually relevant. Using a juridical-normative approach with a descriptive-analytical method, this research explores the alignment between criminal law reform and Pancasila as the highest legal value source in Indonesia. The findings suggest that core consensus principles such as just and civilized humanity, social justice, and deliberative resonate strongly with the ideals of restorative justice and rehabilitative approaches that are increasingly prominent in the modern criminal justice discourse. Nonetheless, the primary challenge lies in operationalizing these values into concrete, enforceable legal norms. Therefore, integrating Pancasila into criminal law reform requires a contextual approach that respects social pluralism, criminal dynamics, and evolving public needs. In conclusion, Indonesian criminal law reform should move toward a legal system that not only punishes but also educates and restores—reflecting the philosophical essence of Pancasila as the ideological compass of the nation.*

**Keywords:** *Criminal; Justice; Law; Reform; Substantive.*

### **1. Introduction**

Criminal law reform in Indonesia is an important part of a systematic effort to adapt legal instruments to evolving social, political, and cultural developments. To date, national criminal law remains heavily influenced by colonial legacies that tend to prioritize retributive and legal positivism approaches, prioritizing legal

certainty without considering substantive justice and local values.

As a result, criminal law is often repressive and rigid, and less able to address the complexities of Indonesia's multicultural society.

In this context, Pancasila as the foundation of the state and the source of all sources of law in Indonesia has a strategic position to be used as a normative framework in reforming criminal law.<sup>2</sup>The values embodied in the five principles of Pancasila, such as just and civilized humanity, social justice, and deliberation to reach consensus, contain moral principles that can enrich the construction of criminal law to make it more adaptive and humane. This aligns with the restorative justice paradigm, which emphasizes the restoration of social relations, the rehabilitation of perpetrators, and the active involvement of victims and the community in resolving criminal cases.

However, the integration of Pancasila values into criminal law cannot be done solely textually. A contextual approach is required that takes into account the social dynamics of Indonesian society, including cultural plurality, local value systems, and global legal developments.<sup>4</sup>Without a contextual approach, there is a risk that Pancasila values will only become normative symbols without real implementative power in the criminal justice process.

Consequently, criminal law reform must be directed toward a system that is not solely oriented toward punishment, but also prioritizes educational, corrective, and rehabilitative values. This reflects the spirit of Pancasila, which places justice as a primary principle in national and state life. Therefore, the urgency of integrating Pancasila values into criminal law reform requires in-depth examination through a normative juridical approach, examining relevant laws and regulations, court decisions, and legal doctrine.

This research aims to answer the question of how Pancasila values can be internalized into the substance, structure, and culture of Indonesian criminal law, and how a contextual approach can be used to ensure the effectiveness of these values in criminal justice practice. It is hoped that the results of this research will provide theoretical and practical contributions toward developing a more just, civilized, and nationally representative criminal law system.

Criminal law reform in Indonesia is not only oriented toward improving the judicial system, but also a strategic effort to build a legal system that aligns with the nation's philosophical values. In this context, Pancasila holds a central position as an ideology.

The state and the source of all legal sources in Indonesia. Therefore, integrating Pancasila values into criminal law reform is a necessity, in order to establish a legal system that is not only repressive but also just, humanistic, and contextual.

Theoretically, criminal law has a dual function: as a tool of social control and as a mechanism for protecting the fundamental values of society.<sup>5</sup> Within this framework, criminal law must be designed to not only provide a deterrent effect but also protect human rights, ensure substantive justice, and promote social recovery. This is where the values of Pancasila, such as just and civilized humanity and social justice, are relevant as normative references in designing a holistic criminal law system.

According to Barda Nawawi Arief, reform of Indonesian criminal law must be based on the personality of the nation, not just adopting foreign models by copying and pasting.<sup>6</sup> Pancasila, as a reflection of the nation's noble values, serves as a foundation that can guide criminal law reform to align with the needs of Indonesia's pluralistic and dynamic society. This reflects the law-as-a-tool-of-social-engineering approach which is not merely formalistic but also responsive to current developments.

One concrete form of integrating Pancasila values into the criminal justice system is through a restorative justice approach. This approach is based on the principles of restoration, reconciliation, and participatory justice, which align with the second and fifth principles of Pancasila.<sup>7</sup> Restorative justice facilitates meetings between perpetrators, victims, and the community in seeking fair and shared solutions, without having to rely on criminal sanctions as the sole instrument for conflict resolution.

In contrast, the Indonesian criminal justice system remains firmly rooted in the retributive justice paradigm, which emphasizes retribution for crimes with appropriate punishment. This approach often neglects the needs of victims and leaves no room for perpetrators to constructively correct their mistakes. In this context, the values of Pancasila can act as a corrective to this overly legalistic and decontextual approach.

The implementation of Pancasila values in criminal law also requires a reformulation of legal norms that have not reflected substantive justice. For example, the criminal provisions in the old Criminal Code did not distinguish between perpetrators of serious crimes and violations.

Proportionately light sentences demonstrate weaknesses in implementing the principles of social justice. Criminal law reform through the RKUHP presents an opportunity to reorganize the penal system to make it more balanced and in line with the moral values of Indonesian society.

In progressive legal literature, Satjipto Rahardjo states that law is not a rigid institution, but must live with society and answer their real needs.<sup>10</sup> This idea emphasizes the importance of contextual legal reasoning, namely, an understanding of law based on social, cultural, and historical context. Therefore, the integration of Pancasila values is not sufficient at the doctrinal level but must

be internalized in everyday legal practice by law enforcement officials, judges, and policymakers.

Furthermore, the role of legal education in instilling Pancasila values is crucial. The legal curriculum in universities must incorporate a contextual approach based on Pancasila values so that prospective law enforcers not only understand the law normatively but also develop ethical and social awareness. This will shape the character of law enforcement officers who not only obey the rules but also uphold justice and humanity.

Lessons from other countries show that integrating philosophical values into legal systems is a common practice in legal reform. For example, South Africa integrated the value of Ubuntu as a philosophical foundation in its post-apartheid legal reform, emphasizing togetherness, reconciliation, and respect for human dignity.<sup>11</sup> Indonesia, with Pancasila as its national philosophy, also has great potential to create a just and dignified criminal law system.

Thus, this literature review confirms that reforming national criminal law based on Pancasila is not only a normative necessity but also a strategic step in building a legal system that aligns with the nation's identity. Integrating Pancasila values into criminal law must be achieved through norm reformulation, transformation of approaches, and internalization in legal practice, so that Indonesian criminal law is not only legal but also socially and morally meaningful.

## **2. Research Methods**

This research uses a normative juridical approach, namely an approach that focuses on the study of applicable positive legal norms and legal principles that are relevant to the topic.

Discussion. This approach was chosen because it is appropriate for analyzing the integration of Pancasila values into criminal law reform as part of the national legal system. In this context, law is seen not only as a set of written rules, but also as a reflection of the nation's social values and ideology that live and develop within society.

The research used is descriptive analytical, aiming to systematically and in detail describe how the basic values of Pancasila can be accommodated in the formation and reform of national criminal law. The data reviewed consists of primary legal materials, namely laws and regulations related to criminal law and the state constitution, as well as secondary legal materials in the form of literature, scientific journals, and the views of legal experts.

Data collection was conducted through library research, reviewing various relevant legal documents, books, and scientific articles. Furthermore, the data

analysis technique employed was qualitative analysis, which prioritizes the interpretation of legal norms in relation to Pancasila values, as well as argumentative and systematic legal reasoning. With this method, it is hoped that research will be able to provide a strong conceptual contribution to efforts to Reform National Criminal Law That Is Rooted In National Identity.

### **3. Results And Discussion**

Criminal law reform cannot be separated from the underlying legal philosophical paradigm. In the Indonesian legal system, Pancasila is the foundation of the state and the source of all legal sources, and should serve as the primary reference in the formulation and enforcement of law, including criminal law.<sup>15</sup> However, in practice, the Indonesian criminal law system is still dominated by the legacy of legal positivism, namely a legal view that emphasizes formal legal certainty without considering the socio-cultural context of society.<sup>16</sup> This often results in the application of criminal law that is rigid, repressive, and does not reflect substantive justice.

The values of Pancasila, such as just and civilized humanity, social justice, and the spirit of deliberation in decision-making, provide a rich normative foundation for the formation of a more humanistic criminal law. This approach can be associated with the paradigm Restorative justice, which emphasizes restoring social relations between the perpetrator, victim, and community, rather than simply imposing punishment. This restorative approach allows local values and national culture to play a role in resolving criminal conflicts.

In progressive legal literature, Satjipto Rahardjo put forward the idea that law is not merely a norm written in legislation, but must also exist in society.<sup>18</sup> This thinking aligns with efforts to integrate Pancasila values into the criminal justice system. Living law in society should be the starting point for reformulating criminal law that is more relevant to Indonesia's social context.

Furthermore, criminal law reform must also address the challenges of legal globalization, which brings in various legal models and theories from abroad, including the retributive justice approach, deterrence theory, and incapacitation.<sup>19</sup> Although these approaches have instrumental values in law enforcement, not all of them are in line with the personality of the Indonesian nation which upholds harmony, mutual cooperation, and humanitarian values.

One of the challenges in integrating Pancasila values into criminal law is how to formulate operational, non-abstract legal norms. Values such as social justice and humanity must be translated into the concrete structure and substance of criminal law. This requires the participation of academics, policymakers, and judicial institutions in developing a national criminal law doctrine based on Pancasila.

In the development of national legislation, the Draft Criminal Code (RKUHP) has accommodated several principles that are in line with Pancasila values, such as recognition of customary law, protection of vulnerable groups, and strengthening alternative sentencing outside of prison.<sup>20</sup> However, some criticism is still directed at the RKUHP because it does not fully reflect the principles of justice based on the nation's cultural values.

Meanwhile, the contextual legal theory approach emphasizes that law must be placed within a certain social, political, and historical framework.<sup>21</sup> In the Indonesian context, the application of Pancasila values to the criminal justice system must take into account the diversity of cultures, religions, and local value systems. This requires the development of a model criminal law that is pluralistic and open to differences, not uniform and centralistic law.

Contemporary criminal law literature also highlights the importance of value-oriented legislation, namely the formulation of laws based on the nation's fundamental values. This concept aligns with the goal of integrating Pancasila in criminal law reform. By basing the formulation of legal norms on Pancasila values, it is hoped that a penal system will emerge that is not merely repressive but also transformative.

Within this framework, the integration of Pancasila values must cover three main aspects in the legal system: legal substance, the structure of law enforcement institutions, and the legal culture of society.<sup>22</sup> Legal substance refers to criminal norms that reflect values of justice and humanity. Structure refers to the design of just and accountable institutions. Meanwhile, legal culture reflects the attitudes and behavior of law enforcement officials and the public in implementing the law fairly and morally.

Thus, this literature review shows that the integration of Pancasila in criminal law reform is not merely a symbolic agenda, but rather a conceptual and practical necessity. Criminal law reform based on Pancasila values aims not only to create laws that are

comply with procedures, but also reflect substantive justice, in accordance with the aspirations and identity of the Indonesian nation.

#### **4. Conclusion**

The integration of Pancasila values into Indonesian criminal law reform is a strategic step toward creating a legal system that is not merely repressive but also humanistic, restorative, and contextual. Values such as social justice, humanity, and deliberation have provided normative direction for the reconstruction of criminal justice policy to better reflect national identity. This approach strengthens legal legitimacy and increases public trust in the justice system. Therefore, criminal law reform must consistently position Pancasila as the primary

paradigm, balancing community protection, victim recovery, and perpetrator development. This integration is not merely normative but must also be implemented in legislative practice, law enforcement, and judicial decisions in a sustainable and contextual manner.

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