

Pancasila as a Legal Development Paradigm

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Abstract - Pancasila has experienced ups and downs in development, this is not caused by the weakness of the values contained in it, but rather leads to inconsistencies in its application. In line with the acceptance of the truth of the noble values of Pancasila, the current and enthusiasm for making Pancasila as a paradigm accelerated. History also records how from the past until now Pancasila has often been challenged which resulted in a crisis for the existence of the Indonesian nation. The challenges faced by Pancasila as the view of life and the basis of the state are always directly proportional to the challenges faced by the Unitary State of the Republic of Indonesia as a whole.

Keywords: Legal development, pancasila, paradigm.

I. INTRODUCTION

History has proven that Pancasila as a joint consensus from all critical components of the nation has given importance and strategic meaning to the Indonesian people to continue development towards the aspired society as mandated in the 1945 Constitution. Therefore, there is no need for the slightest doubt for the Indonesian people about truth and determination make Pancasila as the view of life and the basis of the Indonesian state. All elements of the nation need not in the slightest doubt the truth of the values of Pancasila. History also records how from the past until now Pancasila has often been challenged which resulted in a crisis for the existence of the Indonesian nation.

The challenges faced by Pancasila as the view of life and the basis of the State are always in direct competition with the challenges faced by the Unitary State of the Republic of Indonesia as a whole. Because it has become one with the soul of the Indonesian nation, every time there is a challenge aimed at the existence of the Indonesian nation and State, every time the existence of Pancasila is also threatened. The series of historical records are concrete evidence of how difficult the challenges faced by the State and Pancasila are. The formidable challenges that occurred in the past prove how Pancasila is still agreed upon as a State ideology that cannot be replaced by other ideologies. Although in the course of history Pancasila has experienced ups and downs of development, this is not caused by the weakness of the values contained in it, but rather leads to inconsistencies in its application. Therefore, the determination of Pancasila as the basis of the State as well as the ideology of the State is the most rational compromise and historically capable of becoming a unifying tool for the nation, at a time when This nation is still in various differences in primordial ties. In line with the acceptance of the truth of the noble values of Pancasila, the flow and enthusiasm to make Pancasila as a paradigm in the implementation of national development in various aspects of social, economic, political, legal, defense and security life, accelerated. Pancasila is believed to be able to act as a paradigm that provides basic principles as a source of motivation dedicated to the national interest and the benefit of all Indonesian people.

II. RESULT AND DISCUSSION

Basic Concepts of Pancasila and Paradigm The Purpose and Terms of Pancasila

The word Pancasila as the view of life and the basis of the Indonesian nation state, etymologically comes from the Sanskrit language according to Muh. Yamin, in Sanskrit the word Pancasila has two kinds of lexical meanings, namely panca which means five and syila which means joint stone, base or base. The word syila can also mean good, important or obscene rules of conduct. The word in Indonesian is interpreted the same as the word 'moral' which is related to morality. Therefore, etymologically, Pancasila means the five pillars or important rules of behavior.

The term Pancasila, which came from Sanskrit and then became Old Javanese, was eventually used as a term to name the basic philosophy of the Unitary State of the Republic of Indonesia. As the basis and ideology of the State, Pancasila which is extracted from the culture of the Indonesian nation has a very broad role and function in the life of the nation and state. The function and role of Pancasila continues to develop in accordance with the demands of change era. The term paradigm comes from the Latin, namely paradeigma which means pattern. The term paradigm was first proposed by Thomas Khun in his monumental work, Structure of the Scientific Revolution. He defines paradigm as a fundamental view of what is the subject matter. Khun's main idea is to provide a new alternative as an effort to deal with the generally accepted assumptions among scientists about the development of science, which generally argues that the development or progress of science occurs cumulatively. This view is a myth that must be dispelled. Meanwhile, Khun is of the opinion that science develops not cumulatively but in a revolutionary way. With the notion of revolution, Khun explained that the development of science will occur through a paradigm shift: the old paradigm is replaced, either completely or partially, with a new paradigm. Sofian Effendi in Lili Rasjidi explains that the term paradigm by Khun is used to designate two main meanings. First, as a total constellation of thoughts, beliefs, perceptual values, and techniques adopted by academics and practitioners of certain disciplines that affect their perspective of reality.

Second, as a human effort to solve the secrets of science that is able to overturn all existing assumptions and rules. Furthermore, Lili Rasjidi explained that the notion of paradigm as introduced by Scott contains several aspects of emphasis, namely that paradigm is, first, as a new achievement which is then accepted as a way to solve problems and future problem solving patterns. The interesting thing about this understanding is that a paradigm is a way of solving problems that should have predictive power in the future. Second, as a unit of values, methods, measures and general views that certain scientists use as a scientific way of working on that paradigm. Thus the term paradigm is actually a perspective, values, methods, basic principles to solve a problem faced by a nation into the future.

Pancasila as a Paradigm of Legal Development in the Context of a Rule of Law

The existence of Indonesia as a constitutional state is marked by several main elements such as the recognition of the principles of the rule of law and the constitution, the principle of separation and limitation of power according to

the constitutional system regulated in the 1945 Constitution, the principle of an independent and impartial judiciary that guarantees equality of every citizen. in law, as well as ensuring justice for everyone, including against abuse of authority by those in power.

Lilik Mulyadi explained that a government based on law is a government that upholds the rule of law and is not power-oriented. Theoretically, the concept of a legal state adopted by Indonesia is not based on a formal dimension, but in a material sense or is commonly used in terms of the Welfare State or Prosperity State. Therefore, the goal to be achieved by the State of Indonesia is the realization of a just and prosperous society both spiritually and materially based on Pancasila, so that it is also called a legal state that has independent characteristics. Concretely, this independence is studied from the perspective of the application of the concept and pattern of the rule of law in general is in accordance with the conditions of the Indonesian nation with a benchmark in the form of Pancasila.

Pancasila in the context of a state of law basically has several characteristics that influence the life of the nation and state in Indonesia. The principle of harmony in the Pancasila state law can be formulated in terms of both positive and negative meanings. With this meaning, the government in all its behavior always tries to establish a harmonious relationship with the people.

Second, Pancasila guarantees freedom of religion. This shows the commitment given by the state to its citizens to implement the freedom to embrace and worship according to their religion without worrying about threats and disturbances from other parties. Third, Pancasila puts forward the principle of kinship as a fundamental part of government administration. Fourth, Pancasila puts forward the principle of equality in the administration of government. Pancasila to actualize or implement its commitment to the welfare of the life of the community as a mission of the administration of the government itself. Fourth, Pancasila puts forward the principle of equality in the administration of government. Pancasila to actualize or implement its commitment to the welfare of the life of the community as a mission of the administration of the government it self.

National development launched by the state is essentially a modernization effort in various fields of life. In order to achieve these development goals, the law must show its role. Mochtar Kusumaatmadja¹⁹'s view that law must be able to come forward in providing a direction for reform. He further said that law is a means of community renewal based on the assumption that the existence of order or order in development or renewal efforts is something that is desired or even deemed necessary.

In a developing country such as Indonesia, law is always associated with efforts to achieve a better standard of living than has been achieved before. The role of law is becoming increasingly important in the context of realizing development goals. The function of law as a means of community renewal, means that the law is used to direct people to certain patterns as desired by creating new patterns.

In development there are things that must be maintained and protected, on the other hand the law is needed to create patterns that are in accordance with development and so that changes caused by development run in an orderly and orderly manner.

These values are the result of a common consensus from the people who are the source and motivation in the life of the nation and state, which in the Indonesian context is called Pancasila.

For this reason, Pancasila as a whole must be seen as a national guideline, as a national standard, norm and principles which also includes human rights and human responsibility.

Therefore, according to Muladi in Endang Sutrisno the implementation of legal development must be able to utilize Pancasila as a paradigm that emphasizes that development must rely on universal ethics contained in the Pancasila precepts such as:

1. It must not conflict with the principles of the One Godhead which respects the order of religious life, religious feelings and religion as a great interest
2. Respect human rights values, both civil and political rights as well as economic, social and cultural rights and within the framework of relations between nations must respect "the right to development"
3. Must base national unity on respect for the concept of "civic nationalism" which appreciates pluralism
4. Must respect the index or "core values of democracy" as a tool for "audit democracy"
5. Must place "legal justice" within the framework of "social justice" and in relations between nations in the form of "global justice" principles.

Meanwhile, it must be acknowledged that as a former colony, there are still many legal products that are used as colonial heritage. Legal products made by the colonizers certainly contained values of colonialism interests and were lacking and even not in accordance with the norms that lived in society. This is based on the idea that every independent and sovereign country must have a national law both in the political and civil fields that reflects the personality of the soul and the nation's view of life. This consideration is basically intended in the context of efforts to foster national law which is continuously carried out in order to achieve the goals of the nation and state which have been mandated in the Preamble to the 1945 Constitution, in which the precepts of Pancasila are universal values that surround them.

Of course, a culture that is in accordance with the spiritual structure of Indonesian society which is based on Pancasila.

As a paradigm in legal development, Pancasila requires that developments in society are indeed the starting point for the existence of a regulation. Therefore, the law is directed to answer the values of changing community needs and the results contain progress and renewal and improvement of the law on the problems it regulates.

Albert Hasibuan argued that democratic reforms based on Pancasila always encourage the birth of a political law reform aimed at making legal reforms take place better. Therefore, it must be understood that legal reform for the better is very closely related to the dynamics of community needs. One of them is carried out through the evaluation of laws and regulations . Regarding this, Albert Hasibuan further elaborated that legal evaluation, based on legal reform for the better, aims to make the law effective.

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III. CONCLUSION

First, the Indonesian rule of law has Indonesian characteristics. Because Pancasila was appointed as the main basis and source of law, the Indonesian state of law can also be called the state of Pancasila law. Pancasila in the context of a state of law has several characteristics that influence the life of the nation and state in Indonesia, such as: Pancasila requires harmonious relations between the government and the people by prioritizing the principle of harmony; Pancasila guarantees freedom of religion; Pancasila puts forward the principle of kinship as a fundamental part of government administration; and Pancasila put forward the principle of equality in the administration of government. Philosophically, the nature of Pancasila's position as a legal development paradigm has a consequence that all aspects of legal development within the framework of national development must be based on the essence of Pancasila values.

Second, as a legal development paradigm, Pancasila requires that developments in society be the starting point for the existence of a legal product. The law is directed to answer the values of changing community needs and the results contain progress and renewal and improvement of the law on the problems it regulates. Therefore, the development of the national legal system should refer directly to efforts to reform the law through eradicating the remnants of Dutch colonial legal products that are outdated and not in accordance with the Pancasila philosophy. The law must also be able to come forward in providing a direction for reform which is carried out through the formation of laws that are in accordance with the spiritual atmosphere of the Indonesian people in which Pancasila is used as the main spirit.

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