

Implementation of Verdict Based on Pancasila Values in Indonesia

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ABSTRACT--*The judge's task is to administer justice in order to uphold law and justice based on Pancasila. The purpose of this paper is to analyze how the judge implements Pancasila in its decisions. Based on research, Pancasila as the legal ideal of the Republic of Indonesia is the source of law for the formation of law. The legal formers, including judges, must present a good legal order, and good legal order must base itself on the morals of the nation where the law was made/developed, grew and developed. Pancasila values are implemented in verdict. The values in Pancasila that are implemented are: God Almighty Value, Humanity Value, Unity Value, People's Sovereignty Value and Social Justice Value.*

Keywords: Pancasila, verdict, judge

I. INTRODUCTION

Pancasila as the country's ideals and outlook on life for the nation and the state is explored from the soul (volksgeist) and personality of the Indonesians. As the basis and form of composition of a country are closely related to the legal history and social institutions of that country. The original social structure of Indonesia is the creation of Indonesian culture, that is, the mind or spirit of Indonesian mysticism [1].

Not all newly independent states explicitly state that the country wants to establish a new legal system. The Indonesian is a new country which declares firmness to build a new legal system based on the foundation of Pancasila harmony called the Pancasila Legal System [2]

Pancasila Legal System is the legal system belonging to the nation and state of Indonesia itself, part of the heritage of world civilization (the product of civilization). The Pancasila Legal System is an authentic, original legal system. Although Pancasila Legal System is its own legal system, sovereign and different from any legal system in the world, the Pancasila Legal System lives tolerantly with other legal systems [3]

Pancasila is used as a source of all sources of law. Pancasila values form the basis of every legal product. Pancasila is essentially a value in the form of interwoven values as stated in the Preamble of the 1945 Constitution. Value is something that is considered positive, valued, nurtured, exalted, respected, make people happy, satisfied or grateful [4]. These values are the value of God Almighty, the value of Humanity, the value of Unity, the value of People's Sovereignty and the value of Social Justice. The concept of Pancasila State law must be able to become a convenient facility and place for the life of the Indonesian people.

Therefore, this article explores the following research questions: How are Pancasila values implemented in the verdict?

II. RESEARCH METHOD

The research is a legal doctrinal research or legal normative research. In normative concept, law is a good norm which is identified as a must be realized-justice or a norm which has been manifested as an explicit order and clearly formulated positively. The data are collected through literature study to obtain data in the form of documents and writing by searching the legislation, documents, scientific literatures, and researches from the experts. The research uses the main sources of the secondary data or literature materials. The secondary data include the primary, secondary, and tertiary legal materials. The data are secondary data which are then analysed through deductive logic.

III. FINDINGS AND DISCUSSION

1. Indonesia is a Rule of Law Based on Pancasila

Indonesia is a law state that is in line with Pancasila values. The development of the Indonesian rule of law leads to the strengthening of the rule of law element. The state of the law in Indonesia is a state of the law in accordance with the values of Pancasila. These values are: the value of God Almighty, the value of Humanity, the value of Unity, the value of People's Sovereignty and the value of Social Justice.

Pancasila as the legal goal of the Republic of Indonesia is the source of law for the formation of law. The legislators, including judges, must present a good legal order, and good legal order must base themselves on the morals of the nation where the law was made or compiled, grew and developed [5].

The substance of the legal discovery for the judgement itself is a genuine effort to find the law in *concreto*, and therefore a judge has first had a comprehensive collection of legal knowledge in *abstracto*. Judges are also required to make legal creation (*rechtsschepping*), namely through the judge's creativity with the intermediaries of the decisions he handed down to form the law (judge made law). Aside from being a legislator as an abstract objective law maker, a judge is a concrete objective law maker. [6]

Laws or other regulations will not possibly regulate the acceleration, development, and change of people's lives in

detail, so in this aspect, a legal formation is needed which some say states that "judges fill the void in the formal legal system of the applicable legal system." It means that judges can even have to fill the emptiness in the legal system (*rechtsvacuum*). The formation of law is an embodiment of a judge's creation that not only discovers what is already in the sources of law but also creates something from nothing. Herein lies the importance of the function and role of a judge to answer and protect the legal issues that occur in society over the authority laid by the law. [7].

Judges' positions in court institutions in Indonesia are placed as diggers, inventors and creators of law and justice, not merely as legal implementers and case breakers. Judges are required to formulate findings of values in a society based on the law and values of justice [10].

2. Values in Pancasila

2.1. Value of Belief in the Almighty God

The birth of the Pancasila state is different from the liberal perspective which sees the state as a certain status produced by a social agreement from individuals who are free or from naturalist status to *civis* status with protection of civil rights, but in the Pancasila state, there is an assumption that humans are born in its relationship or existence with God Almighty. A special and close relationship between humans and God Almighty, reinforced by the placement of the Precepts of the Almighty God as the first precepts that shelter/underlie the precepts of humanity that are just and civilized, the precepts of Indonesian unity, the precepts of democracy, and the precepts of social justice for all Indonesian people [8].

The legal system in Indonesia is Pancasila. Bismar Siregar said that the Indonesian legal system is Pancasila, which is not negotiable. This is based on the law that always started by "By the Grace of God Almighty". The sentence should not only be a mere formality but must always be practiced. Therefore, Pancasila must remain a source of law and the Divine Precepts of the Almighty become the foundation for every activity on earth in Indonesia. Thus, it is not certainty and law order which is the focus of law experts, but justice and truth are based on the name of Allah [9].

The consequence of law based on Pancasila and inspired by the Almighty God is that the main reference in making a decision must first consult with its pure conscience. The judge must question whether it is appropriate, fair and true and appropriate if the case is being handled. After obtaining a determination, the judge further dialogue that is consulting with the law that lives in the community both religious law and customary law or community habits, then only dialogue with the law to find the legal basis of the decision [10].

Pancasila as a moral philosophy that must be owned by the judge is the ability to control the mind that can provide direction in thinking and acting in carrying out its judicial activities [11].

2.2. Fair and Civilized Humanitarian Values

Pancasila is essentially a value system derived from the noble values of the Indonesian nation's culture that developed throughout history and is rooted in Indonesian culture. Enforcement of human rights is the duty of all levels of society, not only the task of state institutions. All levels of society are expected to collaborate and help each other in upholding human rights in order to achieve the realization of the principles of humanity which is just and civilized and the creation of a prosperous society [12].

The judge can consider, which sentence should take precedence according to the severity and severity of the cause of the general damage. Mistakes made by destroying public order lead to the cessation of the movement of social life [13].

The humanitarian values stated in the second principle of the Pancasila "Just and Civilized Humanity" contained human values. the meaning of human values, namely recognizing and respecting the dignity and rights of others among fellow human beings, helping one another and behaving as civilized human beings [14].

2.3. Value of Unity

For a pluralistic Indonesians, the spirit of unity stemming from Pancasila opposes practices that lead to social domination and discrimination, both for reasons of ethnicity, origin, and religion. The principle of unity and unity is in line with the fact that Indonesia has diversity. The spirit of Indonesian unity opposes all forms of separatism and gives place to pluralism. In principle, Pancasila is built on the awareness of the complexity, heterogeneity or plurality of reality and views [15].

Value of A Unified Indonesia, contains a legal understanding that every legal regulation from the law to the court's decision must refer to the creation of a unity of national citizens.

2.4 Value of Sovereignty

Actualizing the value of Pancasila in the life of society, nation and state is a necessity, so that Pancasila will always be relevant in its function to provide guidelines for policymaking and problem-solving in the life of the nation and state [16].

The position of the same rights and obligations, no one will be forced upon another party. Before making a decision that concerns a common interest, a consultation is first held. The deliberations to reach consensus were covered by the spirit of kinship, which is a characteristic of the Indonesian nation. Indonesian people respect and uphold every outcome of deliberation decisions, therefore all parties concerned accept and carry out in good faith and a sense of responsibility. From a philosophical study, dispute resolution through the peace process can be referred to the fourth precept, that is democracy led by the wisdom in a consensus or representatives [17].

In realizing the simple, fast and low cost of judicial objectives through an effective and efficient court

institution, the Supreme Court as the highest judicial organizer in Indonesia began to devise several methods to streamline the dispute resolution process in the Court. One such idea is to optimize mediation institutions in civil matters. This institution is intended so that the parties to the litigation do not have to go through all stages of the long and long process of the trial process but it is sufficient to reach the pre-trial stage only if the parties succeed in reaching a peace agreement through mediation at the beginning of the trial.[17].

2.5. Value of Justice

Hukum bertugas mewujudkan keadilan sosial sebagaimana pendapat John Rawls yaitu prinsip persamaan yang adil atas kesempatan (the principle of fair equality of opportunity) dan prinsip perbedaan (the difference principle) [18].

The task carried out by law enforcement officials as stated by Immanuel Kant is a categorical obligation or absolute obligation and does not recognize the conditions. Tasks are tasks, must be done. The performance of the judge's duties is in the context of distributing justice to the state, society and the parties [19].

In the Pancasila State, the concept of multidimensional legal justice is covered by one term, namely for the sake of Justice based on a Godhead. Justice here has a perfect meaning because it does not only involve the distribution of resources but must refer to moral issues [9].

The judge's main task is to uphold justice. However, what is meant by justice is not justice according to the sound of the law alone but justice based on the Almighty God. Therefore, every time a judge decides a case is always preceded by a speech for the sake of justice based on the Almighty God [10].

IV. CONCLUSION

Indonesia is a legal state based on Pancasila. Pancasila as a legal ideal that functions as a general principle that guides (guiding principle), norms of criticism (evaluation rules) and motivating factors in the administration of law (formation, discovery, and application of the law) and legal behavior. Judges in the judiciary in Indonesia are placed as diggers, discoverers, and creators of law and justice. The legal formers, including judges, must present a legal order that bases itself on the morals of the nation where the law was made/developed, grew and developed. The values in Pancasila that are implemented are: God Almighty Value, Humanity Value, Unity Value, People's Sovereignty Value and Social Justice Value.

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