

Reorientation of Law Enforcement Based on Pancasila

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Abstrak

Pancasila merupakan dasar negara sekaligus menjadi sumber dari segala sumber hukum. Indonesia sebagai negara hukum, segala aspek kehidupan negaranya haruslah diatur oleh hukum, dan termasuk pula aspek penegakan hukum. Kenyataan yang terjadi penegakan hukum di Indonesia menjadikan sebuah pertimbangan untuk melakukan reorientasi terhadap penegakan hukum di Indonesia, dengan mengembalikannya kepada nilai-nilai Pancasila. Artikel ini ditulis dengan metode penelitian hukum normatif dengan pendekatan konseptual dan perundang-undangan. Hasil dari penelitian ini adalah penegakan hukum yang sesuai dengan Pancasila adalah penegakan hukum yang berkeadilan social, yang memiliki makna keseimbangan antar kepentingan masyarakat.

Kata kunci: Pancasila, Penegakan Hukum, Keadilan Sosial

Abstract

Pancasila is the basis of the state as well as the source of all sources of law. Indonesia as a state of law, all aspects of the life of the country must be regulated by law, and this includes aspects of law enforcement. The fact that there is law enforcement in Indonesia makes it a consideration to reorient law enforcement in Indonesia, by returning it to Pancasila values. This article was written using a normative legal research method with a conceptual and statutory approach. The results of this study are that law enforcement in accordance with Pancasila is social justice law enforcement, which means a balance between the interests of the community.

Keywords: Pancasila, Law Enforcement, Social Justice

INTRODUCTION

Pancasila as a philosophical basis that contains the nation's view of life, should be implemented into the values and norms that regulate cultural, national and state life. Pancasila as the philosophical foundation of Indonesian statehood should be the main foundation for the entire Indonesian state administration system.(Daullah et al., 2022). The legal rules that apply in Indonesia cannot be separated from the philosophical basis of the country. This can be interpreted that Indonesian legal philosophy cannot be separated from Pancasila as the basis of the state.

Historically, Pancasila as the basis of the state was established prior to the Proclamation of Indonesian Independence. In its meetings, the Investigative Body for Preparatory Efforts for Indonesian Independence sought a grondslog Filosofiche for an Indonesia that would become independent, it was decided that Pancasila would be the basis of the state. This means that every action of the Indonesian people and state must be in accordance with Pancasila which has been established as the basis of the state (Bo'a, 2018). Since it was established as the basis of the state until now, Pancasila as the nation's way of life has survived and adapted to the development of the dynamics of people's lives followed by developments in law. The application of Pancasila values in the life of the nation and state of Indonesian society has always been a guideline for bringing Indonesian people towards the life goals they aspire to.

Based on this, the use of Pancasila values must be properly explored. If it is not properly understood, then what will happen will be the opposite, a decrease in the implementation of Pancasila values which will have an impact on not achieving the aspirations of living as a nation and state. Likewise with law enforcement, which should be based on Pancasila. This is very important in order to strive for law enforcement that is socially just for all Indonesian people.

Law enforcement reorientation based on Pancasila needs to be implemented consistently. Law enforcement institutions must always apply Pancasila values as a guide in carrying out their

duties in the realm of justice. This is very important to balance the dynamics of legal developments in society which are moving very fast, especially in the modern era of the industrial revolution 4.0. Pancasila as the identity of the nation will certainly protect the Indonesian nation in order to survive in the massively changing flow of times (Azlina et al., 2021).

Examining the current condition of law enforcement in Indonesia, which is increasingly chaotic, is a sign that efforts are needed to reorient law enforcement that has been carried out so far. Efforts to reorient law enforcement must be directed to return to the values of Pancasila, so that the process of law enforcement can achieve its main goal, that consist of protection for society and realizing people's welfare (Wounde et al., 2023).

The main objective of law enforcement which consists of protecting the community and realizing social welfare has actually been stated in the Preamble to the 1945 Constitution of the Republic of Indonesia which states: "Then instead of that to form an Indonesian State Government that protects the entire Indonesian nation and all spilled Indonesian blood and to advance public welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace and social justice, the Indonesian National Independence was drafted in an Indonesian Constitution, which was formed in the composition of the Republic of Indonesia. people's sovereignty based on Belief in the One and Only God, just and civilized humanity, Indonesian Unity and Democracy led by wisdom in Deliberation/Representation, and by realizing social justice for all Indonesian people".

METHOD

The writing of this article uses the normative legal research method with a conceptual approach and a statutory approach. The technique of collecting legal material in writing this article is done by collecting, classifying, and studying legal materials that are relevant to the topic of writing this article to then be used as material for conducting analysis. The analytical technique in writing this article uses deductive analysis, starting from general propositions to specific propositions to reach a conclusion.

RESULT AND DISCUSSION

Law in English is called "law", in French it is called "droit", in Dutch it is called "recht", in German it is called "recht" and Arabic is called "shari'ah" (Datau, 2022). Law has many facets and scopes because the law regulates all areas of people's lives, not only the people of a nation, but also the world community which is always experiencing continuous development and change. And law as a norm is abstract in nature (cannot be grasped by the five senses). The legal regulations contained in the words of a law are the embodiment of legal norms or symbols used to convey legal norms.

In his life humans always need truth, order, and beauty or enjoyment Therefore there is logic, ethics and aesthetics that include reasoning rules. These rules include religious rules, decency and law. There are several reasons why people obey the law; **First**, people obey the law because they are afraid of the consequences in the form of suffering if the norm is violated. Such laws require a monitoring system from legal officials are not from the community. Once the surveillance system is gone, then the law it becomes dysfunctional. **Second**, people obey the law between maintaining relationships well with other members of society. This is especially in societies where personal and spiritual ties between its citizens are very strong. **Third**, people obey the law because they feel that their interests are fulfilled or not protected by law. **Fourth**, people obey the law because the law is appropriate or compatible with the value system which he adheres to (Tarwan & Dwi, 2022).

Indonesia as a constitutional state means that all activities in the administration of the state must be regulated according to law. The law in question is the positive law or *ius constitutum* that currently applies in Indonesia. All state administration activities must be based on the rule of law. So that it can be said that the law is a direction in the activities of administering the state in Indonesia (Rahardjo, 2006). The existence of Pancasila is needed in the development of law in

Indonesia. All the form of regulations that will be enforced, must be adjusted to the values that are contained in Pancasila. The lower rules cannot be contradicted higher rules. Thus, the legal product applied in Indonesia must always be adapted to the interests of the people and constitute the embodiment the aspirations of the Indonesian people.

Law enforcement is an attempt to tackle crime in an effective manner rational, fulfilling a sense of justice and efficient. In order to cope crime against various means as a reaction that can be given to the perpetrator of crime, in the form of criminal means and non-criminal law, which can be integrated one with another. If criminal means are summoned to cope crime, means that criminal law politics will be carried out, namely holding elections to achieve results of criminal legislation in accordance with circumstances and situations at one time and for the future (Riyanda Elsera, 2021).

Law enforcement in a broad sense includes activities for implement and apply the law and take legal action against any legal violations or deviations committed by legal subjects, either through judicial procedures or through arbitration procedures and other dispute resolution mechanisms (alternative disputes or conflicts resolution). In fact, in a deeper sense, law enforcement activities also cover all activities intended so that the law is a set of normative rules that regulate and bind the subjects law in all aspects of social and state life is strictly obeyed and really run as it should. In a narrow sense, enforcement, the law concerns the activities of taking action against any violations or deviations from laws and regulations, especially those that are even narrower through the criminal justice process involving the role of the police, prosecutors, advocates or lawyers, and judicial bodies.

The law has a sacred task, which is to give to everyone what it is entitled to receive it (E. Utrecht dan Moh. Saleh Djindang, 1983). Laws are made for everyone or for solve a particular case. Theoretically, several principles can be put forward determines whether something is fair or unfair, consist of: (Abdullah & Achmad, 1983)

1. The principle of equality, in which absolute division is made. Every member of the community gets an equal share without regard to individual strengths/disadvantages;
2. The principle of need, where every member of the community gets a share according to their real needs;
3. The principle of qualification, where fairness is based on the fact that the person concerned will be able to carry out the tasks assigned to him;
4. The principle of objective achievement, that the share of a member of society is based on objective conditions;
5. Subjective principle, which is based on subjective requirements such as intention, persistence, diligence and others.

In enforcing the law there are three things that must be considered, consist of law certainty, benefit and justice (Takdir, 2013). Law enforcement is an attempt to realizing ideas about justice, legal certainty and social benefits reality. The process of embodiment of ideas is the essence of law enforcement. The law must be implemented and enforced. Everyone wants to get stipulation of law against concrete events that occur. How is the law that must be applied to every event that occurs. So, basically no there is deviation, "even though tomorrow will be the end of the world, the law must still be upheld". Here it is who want legal certainty. With legal certainty, order in society is reached.

The law that is implemented and enforced must be a law that contains the values of justice as taught by Pancasila in the fifth precept. Therefore the true nature of law enforcement, said Soerjono Soekanto, lies in activities harmonizing the relationship of values that are embodied in solid principles and embody and act as a series of final stage value translation, for create, maintain, and maintain peace social life. Disturbance against law enforcement may occur if there is incompatibility between the trinity values, legal rules, and behavior. Law enforcement in Indonesia must mean enforcement law that contains values in accordance with Pancasila and the 1945 Constitution (Firdasar et al., 2022).

Every violation of material law gives rise to cases (civil, criminal and administrative). Cases that occur due to violations of this law are not may be resolved by taking the law into their

own hands (*eigenrechting*), but in a different way regulated in formal law (procedural law). Because formal law is legal regulations that regulate how to ensure enforcement or material law is maintained.

Every citizen in social interaction must pay attention to and implement (obey) the rule of law, in order to create an orderly life and serene. If there is a violation of applicable laws, regulations what has been violated must be upheld. From the description above, the writer hopes that there will be none what's more, the name of law enforcement is still colored by fraud by the authorities Indonesian law includes the police, prosecutors, courts and institutions societal. The view of justice in national law is rooted in the basis of the state. Pancasila as the basis of the state or state philosophy (*fiilosofische grondslag*) until now maintained and still important for the Indonesian state. Axiologically, the Indonesian nation is a supporter of Pancasila values (a subscriber of Pancasila values). The Indonesian nation which has God, which is humane, which is united, which citizenship, and social justice.

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

The meaning of justice in the Indonesian national law is focused on the basis state, namely Pancasila, of which the fifth precept reads: "Social justice for all people of Indonesia". The issue now is what is called fair according to the conception of national law which originates from Pancasila.

Fair and justice is recognition and balanced treatment between rights and obligations. When there is acknowledgment and treatment of balanced rights and obligations, by itself when we recognize the "right to life", then the opposite should be the case defend the right to life by working hard, and hard work done does not cause loss to other people, because that other person too have the same rights (the right to life) as the rights that exist in individual (Utomo, 2019).

Recognition of the right to life of other people, by itself is obliged to provide an opportunity for the other person to defend his right to life. Such a conception, when connected with the second precept of Pancasila as the source of national law for the Indonesian nation, in essence instructs us to always carry out harmonious relations between humans individually with other groups of individuals so as to create a just and civilized relationship.

As it is known that justice and injustice cannot be separated of life and social life. In everyday life it is often encountered people who "vigilante", actually the act is the same as the deed achieve justice which results in injustice, especially the person being judged that. Social justice concerns the interests of society by itself that individual social justice must set aside individual freedom for interests Another individual. National law regulates justice for all parties, therefore justice in the perspective of national law is justice that harmonizes or harmonizing general justices among some of the individual justices. In fairness, this focuses more on the balance between individual rights of society with general obligations that exist within legal community group.

In essence, the upholding of law and justice is a form of prosperity human beings (citizens) physically, socially and morally. Republic of Indonesia as a constitutional state, recognizes that the obligation to guarantee and realize social justice for all Indonesian people is not an institutional responsibility law solely, but rather the responsibility of all citizens as determined by the philosophy of Pancasila and the 1945 Constitution. The form of responsibility to uphold justice is the quality of people's legal awareness that appears in social order or national discipline.

CONCLUSION

Reorientation towards law enforcement that is returned to Pancasila values is needed to realign law enforcement to arrive at the ideals of the Indonesian nation. The ideals of the nation

in question is the realization of protection of society and people's welfare. In order to realize law enforcement in accordance with Pancasila values, what needs to be considered is the effort to realize social justice as contained in Pancasila. Social justice will be obtained if there is a harmonious relationship between the interests of individuals and individuals, individuals and groups, and between groups. True social justice is the harmony of life in society whose values can be found in Pancasila as the basis of the Indonesian state.

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