

# DEVELOPMENT OF A PANCASILA-BASED COMMUNAL IPR LEGAL SYSTEM IN THE GLOBALIZATION ERA

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## **Abstract**

*Traditional knowledge is an embodiment of a tradition in each country, traditional knowledge in Indonesia must be in accordance with and in line with the values contained in the ideology of Pancasila as the basis for living as a nation state in Indonesian society, the problem in this paper is how the values of Pancasila are contained in the study of knowledge traditional. Pancasila as the basis of the state implies that Pancasila is used as the basis for administering the state. Pancasila as the basis of the state means that the entire implementation and administration of government must reflect the values of Pancasila and must not conflict. The values in a traditional knowledge are actually in harmony with the values contained in Pancasila.*

**Keywords:** *Pancasila Value, Traditional Knowledge.*

## **I. INTRODUCTION**

Values and traditions are something that cannot be separated from one another because values are important things that exist in human activities and life. Tradition or culture is a form of expression of human life that has become a habit and has lasted a long time and is considered important by people's lives. In the current era, the development of the times is growing, no doubt the development of the times has also made culture and traditions that have been passed down for a long time from generation to generation experience an impact which results in the fading of the values of traditional knowledge which are eroded by the times.

Traditional knowledge is an embodiment of a tradition in each country, traditional knowledge in Indonesia must be in accordance with and in line with the values contained in the ideology of Pancasila as the basis of Indonesian society's state life. Because basically the values of Pancasila are extracted from the diversity and local wisdom of the Indonesian nation itself. "The local wisdom of the community is self-identity or on a national scale known as national identity."<sup>3</sup>

For ordinary people, the term traditional knowledge in its meaning is not easy to understand from the meaning of the word. However, if it is interpreted as traditional knowledge, then in fact they (the community) have often had dealings with this problem.

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There are several terms in the literature that discuss traditional knowledge, including local knowledge, indigenous knowledge, and traditional knowledge. However, these three terms essentially have the same principles focused on knowledge that has been known for a long time in a particular community in a country.<sup>4</sup>

Of course, the fading of traditional knowledge cannot be allowed to go unpunished because the values inherited from culture, customs and traditions passed down by our ancestors must be guarded and preserved as a national heritage. Apart from having high economic value, traditional knowledge has a very high moral existence so that the values contained in traditional knowledge can become the norm practiced by local communities based on the ideology of Pancasila.

The problem in this writing is how are the values contained in the study of traditional knowledge.

## **II. DISCUSSION**

### **Historical Pancasila**

The formulation of Pancasila began at the first BPUPKI session, dr. Radjiman Widyodiningrat. The first BPUPKI session discussed a formulation of the problem to be discussed at the session. The problem is about a candidate for the basic formulation of the Indonesian state that will be formed. Then three speakers appeared at the session, namely Mohammad Yamin, Soepomo and Soekarno. On June 1, 1945 in the trial Ir. Soekarno gave a speech orally (without text) regarding the candidate for the basic formulation of the Indonesian state. Ir. Sukarno gave the name of the basic formulation of the country 'Pancasila'. On August 17, 1945 Indonesia proclaimed its independence. The next day, August 18, 1945, the 1945 Constitution was passed. The opening text of the 1945 Constitution contains the contents of the formulation of the five foundations or five foundations of the state which are named Pancasila. Since then Pancasila has become a general term.

Based on this theory it can be concluded that historically Pancasila originated from the first BPUPKI meeting on May 29-June 1 1945. Ir. Soekarno gave a speech orally on June 1, 1945 regarding the basic formulation of the Indonesian state which was named Pancasila.

### **The Essence of Pancasila**

Pancasila as the basis of the state implies that Pancasila is used as the basis for administering the state. Pancasila as the basis of the state means that the entire implementation and administration of government must reflect the values of

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<sup>4</sup> Rohaini, Legal Protection of Traditional Knowledge Through the Development of Sui Generis Law, *Fiat Justisia Journal of Law Studies* Volume 9 No. 4, October-December 2015, hlm. 5.

Pancasila and must not conflict. According to Damanhuri et al<sup>5</sup> etymologically Pancasila comes from Sanskrit which means Pancasila means five and sila means the foundation stone, base and foundation. Pancasila has the meaning of five principles, while the precepts themselves are often interpreted as conformity or rules of good behavior. Nature is something that exists in a person or something that must exist within oneself.

Pancasila is not something foreign to Indonesian citizens, it was implemented in the opening of the 1945 Constitution, paragraph IV, and served as the basis of the Republic of Indonesia, which consists of 5 precepts. Even though the 1945 Constitution does not directly explain Pancasila, Pancasila has been instilled in the soul of the Indonesian people that Pancasila is a guideline that must be instilled in oneself. According to Suraya.<sup>6</sup>

Pancasila is the foundation of the Indonesian state, Pancasila is likened to the foundation, so the stronger the foundation, the stronger a country will be. Pancasila also reflects the personality of the Indonesian people because it contains points which when implemented will reflect the personality of the Indonesian nation. Based on the above understanding, it can be concluded that the essence of Pancasila is something contained in the values contained in the Pancasila precepts which must be used as a cause, so that it is used as the basis of the state. Pancasila shows the nature or substance of Pancasila, namely the basis or basic words of God, humans, people, and justice. Obtain prefixes and endings of allness, role, divinity, humanity, unity, democracy, and justice. Nature or substance has abstract, general, universal, absolute, fixed, unchanging properties, regardless of situation, place and time.

### **Overview of Pancasila Values**

Value is essentially the nature or quality attached to an object. Something has a value in something that contains properties and qualities in it. Value is not something that can be measured by means of the senses or measuring instruments, but is measured by conscience accompanied by sensory tools.<sup>7</sup>

Pancasila as a value system contains a series of values that are interrelated with one another. The value system is a comprehensive concept or idea about what is considered good, valuable and important in life that exists in the mind of a person or part of society. Pancasila as a value system is included in moral values or good values and are basic values that are abstract in nature. "Pancasila as a value system contains a series of values that are interrelated and inseparable. While the values contained in Pancasila are the values of divinity, humanity, unity, democracy, and justice. Pancasila as a value system also recognizes other values in a complete and

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<sup>5</sup> Darmodihardjo, D et al. Santiaji Pancasila Revised Edition. Surabaya: National Business, 1996, hlm. 183.

<sup>6</sup> Suraya (2015:154)

<sup>7</sup> Kaelan, Education to Realize Pancasila Values, National Sense and Love for the Motherland, PT. Pradnya Paramita, 2016, hlm. 32.

harmonious manner, namely the values of truth, aesthetics, ethics, and religion. objective Pancasila values can be explained as follows:

*"The formulation of the Pancasila precepts is actually the essence of its deepest meaning indicating the existence of universal and abstract general characteristics, because in essence Pancasila is a value, (b) the core values of Pancasila apply not bound by space, meaning that it has been in effect since ancient times. , the present, and also for the future for the Indonesian nation and perhaps for other countries which are explicitly visible in customs, culture, state system of life and religious life, (c) Pancasila which is contained in the Preamble of the 1945 Constitution, demands the science of law fulfills the requirements as a fundamental principle of the state so that it is a source of positive law in Indonesia".*

The Meaning of Pancasila Precepts As the basis of the state philosophy, Pancasila is a value system. Pancasila values contain values that are different from one another, but these values are a systematic unit. The values of the Pancasila precepts cannot be separated or cannot be separated from the values of the other Pancasila precepts. According to Imron<sup>8</sup> the values contained in the five Pancasila precepts are translated into 45 Pancasila values. Then it can be explained as follows.

- 1) The Precepts of Belief in the One and Only God "The Precepts of the One and Only God" contain values that animate the other four precepts. The state was founded for the purpose of humans as creatures of God Almighty. Everything related to the administration of the state must be imbued with the values of "Belief in One Almighty God.
- 2) The Precepts of a Just and Civilized Humanity "The Precepts of a Just and Civilized Humanity" contain a universal meaning that the Indonesian nation is part of the human race in the world and wants prosperity for all people.
- 3) The Precepts of Indonesian Unity The meaning of unity means to be one and not to be divided or separated. The meaning of Indonesian Unity is often associated with a sense of Nationalism. The values of nationalism must be reflected in all aspects of national and state life.
- 4) Populist Precepts Led by Wisdom in Deliberation or Representation The values contained in the ila "Populist Led by Wisdom in Deliberation/Representation" but the embodiment of human nature as individual beings and social beings and have values.
- 5) Social Justice for All Indonesian People Justice means giving something to someone according to their children. The fifth precept of the value of justice must be realized in shared life (social life). This justice must be imbued with the essence of justice, namely fairness to oneself, fellow human beings, the environment, and to God Almighty.

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<sup>8</sup> Imron 2017: 21

## **Pancasila Values in the Study of Traditional Knowledge**

The concept of traditional cultural expression is basically divided into 3 words, namely expression, culture and tradition, namely one unit of keidabh kaludaya community as the owner of the economy, spirituality and communality carried out by traditional communities, so that traditional cultural expressions can represent the identity of indigenous peoples in a region. area. Traditional cultural expressions related to collective entities, namely a group of people, a community, a small group, or an indigenous person. Traditional cultural expressions do not have individual characteristics since they express a shared cultural identity. A society considers traditional cultural expressions as an important part of cultural heritage.<sup>9</sup>

The concept of traditional cultural expression is fundamentally divided into 3 words, namely expression, culture and tradition, which is an integral part of the cultural life of the community as its own owner which contains economic, spiritual and communal values that are respected by traditional communities, so that traditional cultural expressions can represent community identity. custom in an area. Traditional cultural expressions are related to a collective entity, namely a group of people, a community, a small group, or indigenous people. Traditional cultural expressions do not have individual characteristics since they express a shared cultural identity. A society considers its traditional cultural expressions as an important part of its cultural heritage.

Indonesia is a country that has many very diverse cultures, such as traditional houses, traditional ceremonies, traditional clothes, traditional dances, traditional musical instruments and social cultures in society. Examples of cultural diversity in the form of traditional houses owned by each region are different. The above culture is the embodiment of traditional knowledge.

Traditional knowledge is intellectual work in the field of knowledge and technology that contains elements of traditional heritage characteristics that are produced, developed and maintained by certain communities or societies.

The values contained in Pancasila are values extracted from the noble values that exist within the Indonesian nation. Pancasila is essentially humanistic, meaning that Pancasila values are based on values originating from human dignity as a cultured being. Pancasila as the basis of the Indonesian State contains values that are general (universal) and can also be specific. It is general in nature because the values contained in it mean good, while it is specific because Pancasila contains 5 values (Divine Values, Human Values, Unity Values, Populist Values and Human Values) which actually guide the Indonesian people in carrying out their lives.

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<sup>9</sup> Purnama Hadi Kusuma, Protection of Traditional Cultural Expressions and Geographical Indications: An Intellectual Property With Communal Ownership, Indonesian Journal of Legal Development, Vol 4, No 1, 2022, hlm. 7.

The values of Pancasila itself are raised from the values that existed in the real life of the Indonesian nation in the form of customary, cultural and religious values that were owned by the Indonesian people before forming the state.

The values in a traditional knowledge are very attached to the people who are believed to be true and are able to become an identity or characteristic for the people and are even able to influence the people in behaving because it has become a habit. Traditions that have been maintained until now must contain good values so that they still exist in society. The values in a traditional knowledge are actually in line with the values contained<sup>10</sup> in Pancasila. Pancasila values in culture and traditions influence society because of Pancasila values.

### III. CONCLUSION

Pancasila as the basis of the state implies that Pancasila is used as the basis for administering the state. Pancasila as the basis of the state means that the entire implementation and administration of government must reflect the values of Pancasila and must not conflict. The values in a traditional knowledge are actually in harmony with the values contained in Pancasila. The values contained in traditional knowledge contain 5 values (Divine Values, Human Values, Unity Values, Community Values and Human Values).

The development of the Communal IPR system in the era of globalization should always prioritize the values contained in Pancasila, because the Pancasila values themselves are lifted from the values that exist in the real life of the Indonesian nation in the form of customary, cultural and social values. religious values possessed by the Indonesian nation before forming a state. So that a country has characteristics that are known by other countries.

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<sup>10</sup> Andi Erika Aspudianti, Implementation of Pancasila Values in the Traditional Ceremony of Making Pinisi Boats for the Community of Bontobahari District, Bulukumba Regency, 2021, hlm. 34.

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*What is Traditional Knowledge?*  
([http://www.nativescience.org/html/traditional\\_knowledge.html](http://www.nativescience.org/html/traditional_knowledge.html)) accessed on 8 November 2022