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RESEARCH ARTICLE

PANCASILA SOCIAL JUSTICE FOR THE WELFARE OF ALL INDONESIAN PEOPLE

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Abstract

Various kinds of cases that occur in Indonesia are a reality in the life of the state. Everything ends in justice, namely justice that does not materialize in the form of fulfilling rights. The meaning is justice that is demanded here is concrete justice. Justice based on the Five Principles of Pancasila, namely social justice which is not carried out on a personal will but as a behavior to give to others what is their right for the realization of a prosperous society. Welfare is the main goal of social justice. As a concept, Pancasila social justice is a reduction of several theories and concepts of justice that the authors try to collaborate with the concepts of management and use of natural resources in a pluralistic nation whether religious, territorial, or ethnic and cultural.

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Introduction:-

Pancasila Social Justice is a concept which is the development of the concept of social justice in point 5 of the Pancasila which is rooted in the diversity and pluralism of the Indonesian nation. Social justice is a concept that has fascinated philosophers since Plato denied the young philosopher Trasymus, because he stated that justice is whatever is determined by the strongest. In the Republic, Plato formalized the reason that an ideal state would rely on four good qualities, wisdom, courage, abstinence (concern), and justice.¹. Making society just and prosperous is also one of the goals of our country, Indonesia. There are no first class citizens and second class citizens in Indonesia. So there is no need for double standards and special application for certain classes of citizens. Because the law is commander in chief and regulates the community so that the community becomes prosperous. And every citizen is equal before the law. True law must be present to be an instrument of peace and a tool for justice. And the State should be present as a guarantor of the rights of its citizens who entrust their sovereignty to run this organization. But the existence of law in the eyes of the public is very alarming, and is no longer trusted. People prefer to avoid the law when solving actual problems. The law no longer works well, even the abuse of authority or the presence of conflict interest is an important factor in law enforcement, so the law will no longer be fair for people who do not have access to power. The reality of injustice has become a phenomenon in national life. And justice is getting further from the level. Various kinds of cases that occur in Indonesia are a reality in the life of the state. Everything ends in justice, namely justice that does not materialize in the form of fulfilling rights. The meaning is justice that is demanded here is concrete justice. Justice that is based on the Five Principles of Pancasila, namely "social justice" which is not carried out on a personal will but as a behavior to give to others what is their

¹ http://id.m.wikipedia.org/wiki/keadilan_sosial diakses 3 April 2019

right for the realization of a welfare society.² Welfare is the main goal of social justice. As a concept, Pancasila social justice is a reduction of several theories and concepts of justice that the writer tries to collaborate with the concept of management and utilization of natural resources in a plural nation whether religious, territorial, or ethnic and cultural.

Before Pancasila was formulated and ratified as the Basis of State Philosophy its values already existed in the Indonesian nation which was a view of life in the form of traditional values and the values of Pancasila materialist causes. Thus between Pancasila and the Indonesian people can not be separated so that Pancasila is the Indonesian national identity. After the Indonesian people founded the State, by forming the State, Pancasila was ratified as the basis of the Republic of Indonesia. As a nation and country, Indonesia has the ideal that is considered the most appropriate and correct so that all the ideals, ideas, ideas are contained in the Pancasila. So in this sense Pancasila is located as the Ideology of the Nation and State of Indonesia and at the same time as the Principle of Unity and Unity of the nation and State of Indonesia. Thus the Pancasila as the basis of the State philosophy, objectively raised from the view of life which is at the same time as the philosophy of life of the Indonesian people that has existed in the history of the nation itself. This view of life and philosophy of life itself is a crystallization of the values that the Indonesian people believe to be true that has led to their determination to realize them in their attitudes and behavior. View of life and philosophy of life is a driving force for actions and actions in achieving its goals. The values of Pancasila have been reflected in the repertoire of customs and religious life. When the founders of the Indonesian State prepared for the establishment of an independent Indonesian State, they were fully aware to answer a fundamental question, "on what basis was the Indonesian state established". With answers containing the meaning of life for the Indonesian people themselves who are the embodiment and embodiment of the values that are owned, believed, lived by the truth throughout the ages in the history of the development and growth of the nation from birth.³

These values are the result of Indonesian people's basic thoughts and ideas about life that are considered good. They create a value system that supports the social life order and the spiritual life order of the nation which gives the style, character and characteristics of the Indonesian people and nation that distinguishes it from other communities or nations.

The Indonesian nation has long been a religious nation in the sense of a nation that believes in its creator God. This is evidenced by the existence of various beliefs and religions that existed in Indonesia between about 2000 SM during the Neolithicum and Megaliticum. Among others in the form of "Menhir" which is a kind of pillars or stone monuments, stone tombs, staircase steps found in Pasemah mountains between the regions of Palembang and Jambi, in the Besuki area of East Java, Cepu, Cirebon, Bali and Sulawesi. As a human reflected for the highest that, Hyang Tunggal means the Almighty, God, symbol with Menhir is a stone pillar that was erected. The ideals of unity are reflected in various expressions in regional languages throughout the archipelago as the nation's culture, such as notions or expressions of "homeland" as expressions of the understanding of unity between land and water, territorial unity consisting of islands, oceans and air: "land of blood" which expresses the union between humans and the natural surroundings between the earth and those around it: Bhineka Tunggal Ika "which expresses the ideals of humanity and unity at the same time, which is also sourced from the history of the Indonesian people with a kingdom that can be classified national in nature, namely Srivijaya and Majapahit.

Based on the original social and spiritual structure of the Indonesian nation, as well as being inspired by the world's big ideas, the founder of our country, which was incorporated in the Indonesian Independence Preparatory Efforts Agency (BPUPKI) and especially in the Indonesian Independence Preparatory Committee (PPKI), purify and condense the values possessed, believed, and lived by the Indonesian people to be Pancasila whose formulations are contained in the 1945 Constitution, as the State's ideology, the nation's life outlook, the State's Basis, and the source of all sources of law in Indonesia. The asymmetrical concept of Justice itself is in the background of the nation's philosophy and ideology, Pancasila. Pancasila is the basic ideology for the Indonesian state. This name consists of two words from Sanskrit: panca means five and sila means principle or principle. Pancasila is the formulation and

² Syamsul Bachri, Dkk, Mengajarkan Hukum yang Berkeadilan, Cetak Biru Pembaruan Pendidikan Hukum Berbasis Keadilan Sosial, The Indonesian Legal Resource Center (ILRC) bekerjasama dengan Fakultas Hukum Airlangga

³ Surabaya, Fakultas Hukum Universitas Brawijaya Malang, Fakultas Hukum Universitas Hasanudin Makassar, Jakarta, 2009, h.20

guideline of national and state life for all Indonesian people. In the course of the history of the Indonesian nation, the role of Pancasila experienced ups and downs depending on the political and government conditions that existed at the time or era. Pancasila consists of five precepts. The five precepts are: God Almighty, Humanity that is just and civilized, Indonesian Unity, Democracy led by wisdom in the deliberative representation, and Social justice for all Indonesian people. The history of the making of the Pancasila began with the promise of independence at a later date to the Indonesian people by the then Prime Minister of Japan, Kuniaki Koiso on September 7, 1944. Then, the Japanese government formed BPUPKI (Investigation Agency for Preparation of Indonesian Independence) on March 1 1945 which aims to study matters relating to the governance of Free Indonesia. Muhammad Yamin put forward five bases in his speech on May 29, 1945 as follows: Nationality Fairy, Humanity Fairy, Godliness, Folklore Election, and People's Welfare. He stated that the five precepts formulated were rooted in history, civilization, religion, and state administration which had long developed in Indonesia. Then the Five Sila by Sukarno was stated on June 1, 1945 in his spontaneous speech which came to be known as "The Birth of Pancasila". Sukarno put forward the basics as follows: Nationality; Internationalism; Consensus, basis of representation, basis of consultation; Well-being; Deity. The name Pancasila was pronounced by Sukarno in his speech on June 1. After that the basic Pancasila underwent several changes and improvements to the formulation until finally it was determined that Pancasila as the basis of the State has five precepts namely:

1. Believe in the one supreme God
2. Justice and civilized humanity
3. The unity of Indonesia
4. The democracy led by understanding wisdom among honorable representatives from the parliament house
5. Social justice for all of the people of Indonesia

As an ideology of the nation, the values and ideals of the nation contained in Pancasila are not imposed from the outside, but are excavated and taken from the spiritual and moral richness of the Indonesian people themselves, and not the ideological beliefs of a group of people, but rather the result of deliberation and consensus from the community. Therefore Pancasila is an open ideology, because it is dug up and found in society itself and not created by the State. And Pancasila is the property of all Indonesian people, because Indonesian people find their personality within Pancasila itself as their ideology. Besides that, Pancasila is also the highest legal norm that protects the entire life of this nation indiscriminately. The aim is to make Indonesian society just and prosperous. Because in Pancasila there is contained the value of justice for the entire nation.

The idea of justice indeed contains many aspects and dimensions, namely legal justice, economic justice, political justice, and even social justice. It is true, social justice is not synonymous with economic justice or legal justice⁴. Even social justice is not the same as the values of justice envisioned in the philosophy of life that is commonly developed by philosophers. However, the end of thoughts and dreams about justice is actual justice in real life that is reflected in the structure of collective life in society. That is, the end of all ideas about legal justice and economic justice is real social justice. Therefore, it can be said that the concept of social justice is a node of all dimensions and aspects of the humanitarian idea of justice. The term social justice is closely related to the formation of the structure of community life which is based on the principles of equality and solidarity. In the concept of social justice contained recognition of human dignity that has the same rights that are fundamental⁵. The concept of social justice differs from the idea of legal justice that is usually enforced through legal processes. But the concept of social justice certainly does not only involve issues of morality in social life that vary from one culture to another so that the degree of universality is uncertain. As stated above, social justice must be distinguished from various dimensions of justice, such as legal justice, political justice, economic justice, and so on, although it can also be understood that the whole idea of justice can ultimately be encompassed by and ultimately lead to the idea of social justice. Because in the end, legal justice and economic justice must produce the final results in the realization of social justice for all⁶. The concept of social justice differs from the idea of legal justice that is usually enforced through legal processes. But the concept of social justice certainly does not only involve issues of morality in social life that vary from one culture to another so that the degree of universality is uncertain. As stated above, social justice must be distinguished from various dimensions of justice, such as legal justice, political justice, economic justice, and so on, although it can also be understood that the whole idea of justice can ultimately be encompassed by and ultimately lead to the

⁴ Jimly Assidique, 2011, Pesan Konstitusional Keadilan Sosial, Malang 12 April 2012, diakses 9 april 2019

⁵ ibid

⁶ Ibid

idea of social justice. Because in the end, legal justice and economic justice must produce the final results in the realization of social justice for all⁷. In it, there is an understanding that (i) Injustice that has existed so far must be addressed to the lowest point, (ii) Redistribution of wealth, power and status of individuals, communities, and social wealth (societal good), and (iii) State c.q. The government is responsible for the government to ensure the basic quality of life for all citizens. The point is that the development target to be achieved is the improvement of natural resource management systems and the environment for the creation of a balance between aspects of the utilization of natural resources as capital for economic growth (contribution of the fisheries, forestry, mining and mineral sectors to GDP) with aspects of protection of the preservation of environmental functions life as a broad-based life system⁸. The existence of this balance means ensuring the sustainability of development. For this reason, the mainstreaming of the principles of sustainable in all sectors, both at the central and regional levels, becomes a necessity⁹. What is meant by sustainable development is an effort to meet the needs of the present generation without compromising the interests of future generations. All activities must be based on three pillars of development in a balanced manner, namely economically viable, socially acceptable and environmentally sound. These principles must be spelled out in the form of environmental policy and regulatory instruments that can encourage medium-term development investment in all sectors and fields related to natural resource development and environmental targets¹⁰. In addition, it is also necessary to pay attention to the indigenous people's local wisdom in natural resource management so that harmonization in social welfare is truly realized. Decentralization carried out in regional autonomy opens space for regions to be able to regulate themselves. However, the perception and understanding of decentralization in regional autonomy are misinterpreted so that local authorities and elites are reluctant to give space to others. Natural resources are considered to be owned by themselves so that they can be exploited at will without thinking about the negative impacts. The existence of policies that give more authority to the regions to manage natural resources is expected to have an impact¹¹:

1. Ease of licensing and reduce high licensing costs
2. Smooth investment into the regions
3. Direct involvement of local governments in the management of their natural resources
4. Does not cause social jealousy In addition to this, natural resource management policies are also carried out with the aim of further developing a populist economy in the form of sharing the proceeds to the regions more proportionally, and creating a balance to support sustainable development. Thus, the main issue regarding the management of natural resources in the Region is how to produce natural resource management policies so that they can be used to strengthen the economy of a region optimally¹².

At this level social justice in various fields of life becomes a goal, but in these conditions there must be a standard that there are certain characteristics that distinguish the pattern of implementation of natural resource management in Indonesia. Regional autonomy with the principle of decentralization alone is only a general principle used in the implementation of regional autonomy, so there is no distinction. And to some extent it harms the pluralistic Indonesian society. Both the resources, as well as the region and culture. So that fair treatment in diversity needs to be an idea in achieving a welfare of Indonesian people in real justice. Justice which is a manifestation of the 5th principle of the Pancasila which is the ideological foundation and the foundation of the nation's philosophy. Asymmetric decentralization in the era of autonomy is a good idea but it does not become a differentiator in its implementation because again the level is a reference to the decentralization of the federal state. So for Indonesia there must be a new naming and a new concept that decentralization in Indonesia must be different and adapted to the characteristics of Indonesia based on Pancasila and must also be explored from the ideology and philosophy of this country.

⁷ Ibid

⁸ Presiden Republik Indonesia, Bab 32, Perbaikan Pengelolaan Sumber Daya Alam Dan Pelestarian Fungsi Lingkungan Hidup, rpjm_bab_32_pdf, diakses pada tanggal 8 April 2019

⁹ ibid

¹⁰ Presiden Republik Indonesia Bab 32, Ibid

¹¹ Muhammad Amir Solihin dan Rija Sudirja, Pengelolaan Sumberdaya Alam Secara Terpadu Untuk Memperkuat Perekonomian Lokal Integrated Natural Resources Management To Strengthen Local Economic, SoilREns Vol.8 No.15 Juli 2007, pengelolaan_sumberdaya_alam_terpadu_pdf diakses pada tanggal 8 April 2014

¹² Ibid

Unity in Diversity and Pluralism in the Perspective of Law and Legislation in Indonesia:

The diversity of cultural systems has been recognized as reflected in the slogan "Unity in Diversity". The word *Bhineka Tunggal Ika* was adopted as an effort to cover the existing diversity as well as a strategy to unite the various ethnic groups that exist in a future-oriented bond. Understanding "different but still one" in reality is only beautiful to hear and say, but it is very difficult to realize, because conceptually that understanding has brought a contradiction. Ideally, unity should not kill diversity.¹³ The problem is how these concepts can be translated into real national and state life practices, especially in the embodiment of the notion of "unity" that does not kill "diversity" and prevents the occurrence of an element of diversity that dominates the life of the nation and state.

At the beginning of Indonesia's independence through the constitution (the 1945 Constitution) it was stated that the Republic of Indonesia was a country made up of groups of indigenous peoples, such as the *nagari*, hamlet, clan and others. This means that the Republic of Indonesia at the beginning of its independence recognized the existence of indigenous and tribal peoples with the concept of pure recognition. But in its development the concept of pure recognition has changed into layered conditional recognition which is reflected in legal products related to the Customary Law Community and its traditional rights and territories. And the point of crisis is the 1945 Constitution Second Amendment Results, in article 18B adheres to the concept of conditional layered recognition, which in my opinion is a half-hearted recognition which results that the Customary Law Society has lost its protector in the basic norms of the state and the wrong legal product interpret the concept of recognition in the 1945 Constitution before the Amendment has a justification to continue to apply, and what is of concern is the ratio of Indonesian thinking that places the position of the Customary Law Community in a 'secluded' position. In fact, we know that the policy developed by the New Order government aims to provide a legal basis that is only formal in nature for any arbitrary action by the government in the way of uniformity with Law number 5 of 1979. This has resulted in the loss of *adat* structures and structures so that by easy natural resources of indigenous peoples to exploit the socio-cultural rights of the Customary Law Community. What the government did at that time was with the aim of seizing the rights and land of the Customary Law Community on the pretext for the interests of the state even though there was a tendency for individual economic interests or the ruling group at that time. All of these actions constitute acts that constitute harassment of the Human Rights of the Customary Law Community.

In a reformation era where law enforcement is an absolute requirement for a democratic country like Indonesia, the implementation of development should no longer be carried out using a needs approach, but it must use a human rights approach. The purpose of the formation of this country is to achieve an independent Indonesia, so that its people become just and prosperous. However, it has been more than 60 years that this country has become independent. In fact the people do not feel free and are free to exercise all their rights even though their obligations are demanded to be implemented. This country has passed the phase where the need for a market building becomes urgent or school is an urgent matter, because there have been many alternatives built during the period of independence. But the important thing here is how the community becomes prosperous not only prosperous in the economic field on one side but prosperous on all sides. Be it economic, political, even security. What is meant here is not only physical security but also inner security. The process of uniformity of cultural customs during the New Order era has caused many problems so that the law no longer provides protection through its laws and regulations, but instead creates conflict. Many indigenous peoples have been displaced by government policy on the pretext of state interests. Indigenous peoples who feel they have rights, and consider it unfair will certainly react, giving rise to conflict. The case of the riots in Papua, in Paperu Maluku is a bit of evidence of conflict due to government policy through its laws and regulations. Not to mention the religion of the indigenous people. The Kaharingan religion in Kalimantan, for example, was disturbed by what happened to the Ahmadiyya, which was considered heretical, would be very dilemmatic if this also spread to other ethnic religions in this country with the justification that only 6 religions were adopted by our country Indonesia. Even though Article 29 of the 1945 Constitution clearly provides a guarantee for every citizen to worship according to his religion and beliefs. That means that no one can take away the rights of others, or determine that what other people believe is wrong, because the right to judge it is God himself.

¹³ Magdalia Alfian, 2010, Naskah Kuno; Identitas Budaya yang Terabaikan, <http://budaya.nusantara.blogspot.com/2010/05/31/naskah-kuno-identitas-budaya-yang-terabaikan/>, diakses 25 September 2019

A part from these thoughts the government is expected to be firm to uphold the law with no double standards in its implementation. And in making policies in the form of legislation the government must have introduced human rights values that uphold the liberation of pluralism, uniqueness and uniqueness that is owned by the Customary Law Community or other communities with their culture and specialties.

Pancasila and Unity in Diversity within the Framework of the Unitary Republic of Indonesia:

Before Pancasila was formulated and ratified as the Basis of State Philosophy its values already existed in the Indonesian nation which was a view of life in the form of traditional values and the values of Pancasila materialist causes. Thus between Pancasila and the Indonesian people can not be separated so that Pancasila is the Indonesian national identity. After the Indonesian people founded the State, by forming the State, Pancasila was ratified as the basis of the Republic of Indonesia. As a nation and country, Indonesia has the ideal that is considered the most appropriate and correct so that all the ideals, ideas, ideas are contained in the Pancasila. So in this sense Pancasila is located as the Ideology of the Nation and State of Indonesia and at the same time as the Principle of Unity and Unity of the nation and State of Indonesia. Thus the Pancasila as the basis of the State philosophy, objectively raised from the view of life which is at the same time as the philosophy of life of the Indonesian people that has existed in the history of the nation itself. This view of life and philosophy of life itself is a crystallization of the values that the Indonesian people believe to be true that has led to their determination to realize them in their attitudes and behavior. View of life and philosophy of life is a driving force for actions and actions in achieving its goals. The values of Pancasila have been reflected in the repertoire of customs and religious life. When the founders of the Indonesian State prepared for the establishment of an independent Indonesian State, they were fully aware to answer a fundamental question, "on what basis was the Indonesian state established". With an answer that contains the meaning of life for the Indonesian people themselves, which is the embodiment and manifestation of the values they have, it is believed, is lived up to the truth by the people of all times in the history of the development and growth of the nation from birth.

These values are the result of Indonesian people's basic thoughts and ideas about life that are considered good. They create a value system that supports the social life order and the spiritual life order of the nation which gives the style, character and characteristics of the Indonesian people and nation that distinguishes it from other communities or nations.

The Indonesian nation has long been a religious nation in the sense of a nation that believes in its creator God. This is evidenced by the existence of various beliefs and religions that existed in Indonesia between about 2000 BC during the Neolithicum and Megaliticum. Among others in the form of "Menhir" which is a kind of pillars or stone monuments, stone tombs, staircase steps found in Pasemah mountains between the regions of Palembang and Jambi, in the Besuki area of East Java, Cepu, Cirebon, Bali and Sulawesi. Menhir is a stone pillar that was erected as a human unpan for the highest dhat, hyang Tunggal means the Almighty, God. The ideals of unity are reflected in various expressions in regional languages throughout the archipelago as the nation's culture, such as notions or expressions of "homeland" as expressions of the understanding of unity between land and water, territorial unity consisting of islands, oceans and air: "land of blood" which expresses the union between humans and the natural surroundings between the earth and those around it: Bhineka Tunggal Ika "which expresses the ideals of humanity and unity at the same time, which is also sourced from the history of the Indonesian people with a kingdom that can be classified national in nature, namely Srivijaya and Majapahit.

Based on the original social and spiritual structure of the Indonesian nation, as well as being inspired by the world's big ideas, the founder of our country, which is incorporated in the Indonesian Independence Preparatory Efforts Agency (BPUPKI) and especially in the Indonesian Independence Preparatory Committee (PPKI), purify and condense the values possessed, believed, and lived by the Indonesian people to be Pancasila whose formulations are contained in the 1945 Constitution, as the State's ideology, the nation's life outlook, the State's Basis, and the source of all sources of law in Indonesia. As an ideology of the nation, the values and ideals of the nation contained in Pancasila are not imposed from the outside, but are excavated and taken from the moral and cultural spiritual wealth of the Indonesian people themselves, and not the ideological beliefs of a group of people, but rather the results of deliberations and consensus from the community. Therefore Pancasila is an open ideology, because it is dug up and found in society itself and not created by the State. And Pancasila is the property of all Indonesian people, because Indonesian people find their personality within Pancasila itself as their ideology.

Closing:

The history of the long journey of the Indonesian people to become a unitary state of the Republic of Indonesia is not an easy history. Full of blood and tears sacrifice. The independence now achieved by this nation must be based on the most fundamental foundation of this country. The rejection of pluralism or national diversity in the form of oppression and arbitrary treatment of the customs and culture of indigenous peoples and the religion and beliefs of citizens is an act that cannot be tolerated by anyone. The treatment of the State with its various legal instruments not explicitly based on Pancasila and the 1945 Constitution is also a problem. For this reason, the re-establishment of the Pancasila in a pure and consistent manner, such as the early history of the birth of Pancasila, must be upheld. So that this country is not like the Soviet Union or the history of the Balkan countries.

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