

## The Existence of Pancasila in the Draft Law on the Direction of Pancasila Ideology (Sociolegal Study on Public Response to Law Enforcement)

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### ABSTRACT

**Keywords:** Pancasila ideology policy draft law, Pancasila, ideology.

Pancasila as the basis of the Indonesian state has an important role in national and state life. However, along the way, Pancasila experienced various challenges and dynamics, including the emergence of the Pancasila Ideology Policy Bill (RUU HIP) which sparked pros and cons in society. This research aims to analyze the existence of Pancasila values in the Draft Law on Pancasila Ideology and formulate the public's response to the enactment of the resulting law. The method in the research uses a qualitative approach by collecting data through literature studies. After the data is collected, it then involves analysis techniques through three steps, namely simplifying information, presenting data findings, and drawing conclusions. The findings of the research show that supporters of this bill argue that aligning the law with Pancasila values will strengthen the state's ideological foundation and ensure that the nation's noble values become the basis for all activities. However, on the other hand, critics highlight several controversial aspects of this bill that the interpretation of the Pancasila in the HIP Bill is not in line with the version of Pancasila that is widely accepted by Indonesian society. In addition, the absence of an MPRS regulation regulating the dissolution of the PKI in the bill raises concerns that the removal of this reference could give the impression that the government does not recognize the history of the dissolution of the PKI, which is considered an important moment in Indonesian history. Apart from that, there are concerns that this bill could be misused for certain political interests which could damage social harmony and stability in Indonesia.



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### Introduction

Soekarno called Pancasila a filosofie grondslag or a philosophical foundation for the Indonesian nation. Thus, Pancasila has two important functions, namely Pancasila is expected to be a guideline and guide for the daily life of the people of Indonesia, both in

the scope of the family, society, and the nation. In addition, Pancasila is expected to be the basis of the state so it is an obligation that all aspects of state life, including the legal, political, economic, and social fields of society, must be rooted in and aimed at Pancasila (Hakim, 2020).

However, in its journey, Pancasila experienced various challenges and dynamics, including the emergence of the Pancasila Ideology Direction Bill (RUU HIP) which triggered pros and cons in society. The Pancasila Ideological Direction Bill abbreviated as the HIP Bill is a draft law that regulates the direction of Pancasila ideology. According to the Head of the Law Drafting Center of the Inosentius Council Expert Body, Samsul, the bill is a proposal from the Legislation Body of the House of Representatives (Baleg). "Academic manuscripts and drafts were also made by the Baleg," he said. "The Baleg has quite a lot of experts, so most of the bills are worked on by the Baleg, including the HIP Bill."

The HIP Bill creates debate because it includes the concept of trisila, which includes socio-nationalism, socio-democracy, and cultured divinity, as well as ekasila which emphasizes cooperation. In addition, the HIP Bill is also controversial because it does not include the MPRS tap which includes the dissolution of the PKI in its considerations. The Decree of the MPRS is fully named the Decree of the Provisional People's Consultative Assembly of the Republic of Indonesia Number XXV/MPRS/1966 concerning the Dissolution of the Communist Party of Indonesia, Declaration as a Prohibited Organization in All Territory of the State, and Prohibition of Any Activity to Spread or Develop Communist Ideology or Teachings/Marxism-Leninism (Detik.com, 2021). The pros and cons of the HIP Bill reflect the complexity of sociolegal issues related to the existence of Pancasila in Indonesia's pluralistic society. Therefore, research is needed to deeply understand the existence of Pancasila in the HIP Bill, including the community's response to the enforcement of the law.

Previous research (Guawan, 2021) revealed that the controversy surrounding the HIP Bill stemmed from differences in ideological views between the people of Indonesia and the content of the bill. The bill refers to the concept of the Pancasila version of June 1, 1945, which includes Trisila and Ekasila. However, through his analysis, the author concludes that the HIP Bill is not in line with the status of Pancasila as Indonesia's Staatsfundamentalnorm because it is contrary to Law Number 12 of 2011 concerning the Formation of Laws and Regulations. Therefore, the author suggests the cancellation of the HIP Bill because it can disrupt the consistency of the legal system and potentially trigger ideological disputes in Indonesian society.

Another research (Rifki Zulkhakim, 2023) highlights the shortcomings in the preparation of each article of the Pancasila Ideology Direction Bill. One of the main factors that caused this shortage was the absence of mention of the MPRS TAP Number XXV/MPRS 1966, which is believed to be able to re-ignite the existence of the Communist Party of Indonesia. The conclusion drawn from this study emphasizes that Pancasila, as the highest philosophical foundation of the country, should be upheld in the constitution of Indonesia. However, the approval of the Pancasila Ideology Direction Bill

has the potential to reduce the dignity and dignity of Pancasila itself. Pancasila, which is considered the *Philohische* Groundslag or the philosophical foundation of the Indonesian nation, has become the main foothold in the life of the nation and state in Indonesia. Therefore, it is recommended that the House of Representatives does not continue the discussion of the Bill on the Pancasila Ideology, because this action can change the position of the state constitution and the foundation of the life of the nation and state for the people of Indonesia.

This research can be the basis for further research in the same or related fields, as well as contribute to the development of theories and thoughts on the relationship between law and ideology in the context of Indonesian society. The purpose of this study is to analyze the existence of Pancasila values in the Draft Law on the Direction of Pancasila Ideology and formulate a public response to the enforcement of the resulting law.

## **Research Methods**

The method in this study utilizes a qualitative approach in a sociolegal way. Using qualitative means that research involves understanding surrounding events in a focused manner, through the exploration of meanings, views and insights from individuals and communities. This approach focuses more on understanding the context, interpretation, and social construction of the reality being studied (Priadana & Sunarsi, 2021). This research uses a sociolegal approach. Law can be studied through various perspectives, both from the perspective of law and social sciences or even with a combined approach of both. Sociolegal studies is an approach to studying law that combines legal science with social sciences to comprehensively understand the social impact and context of law (Armia, 2022). The object of research in this study is the Legislation Body of the House of Representatives of the Republic of Indonesia. The data collection technique in this study is by literature study. In this study, researchers collected data from various literature sources, such as books, scientific journals, research reports, and documents related to the research. After the data is collected, data analysis includes shrinking the data, presenting the data, and then drawing conclusions.

## **Results and Discussion**

For a long time, Pancasila was not only a national identity but also the basis of the state's ideology containing principles that were believed to be a guideline for the Indonesian people. This concept is known as a doctrine or idea that is firmly held and used as a reference for living a daily routine (Susilawati, 2020). Pancasila is considered an open or flexible ideology because the principles in it can adapt to the progress of the times without eliminating the essence and truth contained in it. This means that the position of Pancasila is considered a middle point or middle way that is not binding or rigid but still has stability and strength as a moral and social foundation for the life of the country.

Pancasila has various meanings that are very important for the Indonesia nation, reflected in the values contained in it, such as the values of Godhead, Humanity, Unity, Society, and Justice which are not only guidelines but also the core of life of the people of Indonesia (Asmaroini, 2017). These values are not only firmly held in the minds and attitudes of individuals, but are also practised in actions and behaviours both personally and in the community. Understanding and practising these values forms unity and harmony in life with the people in Indonesia.

However, in 2020 to be precise, Pancasila as a state ideology was faced with a polemic that arose in connection with the Pancasila Ideology Direction Bill (RUU HIP) proposed by members of the House of Representatives, this bill has been included in the 2020 Priority Bill Prolegnas. The HIP Bill is a legislative proposal that includes an academic manuscript containing 100 pages and a draft bill consisting of 10 chapters and 60 articles, as of April 26, 2020 (Judge, 2020). In the draft, it is stated that currently no law officially regulates the Pancasila Ideological Direction as a guideline for life. So a Law on the Direction of Pancasila Ideology is needed which was finally proposed by DRP through this HIP Bill.

The HIP Bill was normatively proposed because it was considered that there were no provisions that specifically regulated the direction of the Pancasila ideology for the life of the nation and state. Pancasila itself is used as the basis of the state of Indonesia, but there are no regulations that regulate its implementation in detail in various areas of life (Roringkon, 2022). The outline of the reasoning of the House of Representatives (DPR) as a legislative institution in Indonesia, is to draft regulations regarding guidelines for the implementation of Pancasila. The existence of the HIP Bill is expected to set parameters and monitor for legal provisions to be in line with the values of Pancasila.

However, after the issuance of the idea of the HIP Bill, there was a division of opinion from various circles of society. (Septian, 2020), on the one hand, some view this bill as a law that will provide a legal basis for the Pancasila Ideology Development Agency (BPIP) to carry out its duties and functions. This view sees the HIP Bill as an instrument to provide clarity and a framework for BPIP in strengthening the implementation of Pancasila values in various aspects of life. Meanwhile, on the other hand, there is a view that states that the HIP Bill has the pretension to change Pancasila which has been considered final and promulgated since August 18, 1945. This view highlights concerns that the bill could pave the way for a new interpretation of Pancasila or even change the essence of values that have been recognized nationally since the beginning of Indonesia's independence.

Although the HIP Bill has a noble goal to increase the strength of the implementation of Pancasila to live daily life. However, the bill has received a lot of criticism, especially related to concerns about the potential weakening of Pancasila values. Because Pancasila belongs to the entire nation of Indonesia and is not owned by certain groups, every individual from various levels of society has the right to express their views and contributions to the HIP Bill (Hariyadi, 2020). Since the dissemination of the draft bill on April 26, 2020, on social media, there has been a wide response from the

public who reject and take this issue seriously. Including, 2 months after that there were activities involving online studies and discussion of opinions carried out to review the content of the HIP Bill in its entirety. This activity is an achievement in the controversy of the bill in Indonesia because the public responded quickly involving a short period since the draft bill appeared.

Three points are the source of polemics in the HIP Bill. First, related to the basic reasons for the initial step in submitting the bill. Some parties doubt the need for the HIP Bill, considering that there are no urgent conditions that force the need for a Pancasila ideological direction. They argue that to achieve social justice and welfare, there are already many political and legal instruments available, and what needs to be emphasized is their implementation (Mudjiyanto & Dunan, 2021). So it is felt that there is no need to create new rules that have the potential to overlap with existing legislation.

In the draft bill, there is a claim that the Pancasila Ideological Direction will be a guide for all Indonesian people in achieving justice and welfare, with the spirit of kinship and cooperation. However, sceptics consider that the clause regarding justice and welfare has been enshrined in various other regulations, thus raising questions about the need for the HIP Bill itself.

The second point the problem of this bill is that it does not mention the MPRS TAP Number XXV of 1966 which deals with the dissolution of the Communist Party of Indonesia (PKI) and the prohibition on the spread or development of Communism/Marxism-Leninism ideas or teachings. The loss of reference to the MPRS TAP creates a paradox in the HIP Bill because although the bill introduces Pancasila as a guideline for state life, the ban on PKI is not mentioned in its consideration.

This is the estuary for the issue of concerns about the rise of communism that fills the public space (Satria, 2020). The HIP Bill is considered a soft document that is even insensitive to the issue of the rise of communism which is considered a prohibited thing in Indonesia. As a result, it increased the belief that communist power was increasingly consolidated, although the possibility of a revival of communism was very small. However, fear of communist ideology still affects the beliefs of some groups of political Islamist activists, which has been the trigger for recent protests.

The third point of the dynamics of the HIP Bill is an effort to reduce Pancasila by introducing the concept of Trisila (Jaya, 2022). In Article 7 of the draft bill, the concepts of Trisila and Ekasila are explained in an article consisting of three paragraphs. First, it is stated that the main characteristics of Pancasila are justice and social welfare imbued with the spirit of family. Second, it is explained that the main characteristics of Pancasila consist of Trisila, namely socio-nationalism, socio-democracy, and cultured divinity. Then third, Trisila as explained in the second verse is manifested in Ekasila, which is cooperation. The argument about Trisila and Ekasila in the HIP Bill is considered too selective and ignores many important aspects, especially related to cultural divinity. Critics highlight that this concept is difficult to explain academically because the phrase "divinity and culture" represents two different entities, namely the transcendent and profane, making it difficult to mix them up rationally (Mudjiyanto & Dunan, 2021).

The opinion of Anwar Abbas, the Secretary General of the Indonesia Ulema Council (MUI), (Jaya, 2022) revealed in a news source that efforts to squeeze Pancasila into trisila and ekasila are considered a betrayal of the nation and state. According to him, Pancasila as a fundamental norm must be understood as a whole and inseparable unit. Even the order should not be changed. Deviating from it by introducing the concepts of trisila and ekasila is considered an irresponsible and very dangerous action for the future of this nation. Anwar emphasized that trisila and ekasila are not Pancasila.

Another opinion according to Ali Masykur Musa, Chairman of the Nahdlatul Ulama Scholars Association (ISNU), stated that the HIP Bill will eliminate the dimension of spirituality in the life of the nation and state. According to him, Pancasila cannot be reduced to trisila or ekasila, as formulated in Article 6 paragraph 1 and Article 7 of the HIP Bill. This is considered a reduction in the meaning of the precepts of the One Godhead, which is the essence of religious values and spirituality. Ali Masykur Musa explained that for this nation, Pancasila is an agreement consisting of five precepts that reinforce each other, where the precepts of God live the values of humanity, unity, populism, and social justice.

This means that the existence of trisilane and easily creates a polemic where some parties consider that the HIP Bill aims to change the basis of the State of Indonesia by ignoring the divine values contained in the first precept of Pancasila (Alimuddin, Erdalina, & Hanafi, 2021). The rejection of the HIP Bill has a reasonable basis because, in the legal field, Pancasila is recognized as a source of material law that regulates that every law and regulation must not contradict the values of Pancasila. However, in the bill, Pancasila is placed under the law, so there is a discrepancy in legal reasoning regarding the hierarchy.

Based on a series of legislative arrangements, Pancasila is recognized as the ideal aspiration and goal of the law that occupies the most important position (Hakki, Zamzami, & Muchsin, 2022). Pancasila is the main basis for the formation of legal regulations under it and vice versa, the legal rules made must be based on the principles in Pancasila as the origin of the first law, by Article 2 of Law No. 12 of 2011 concerning the Formation of Laws and Regulations.

The legal structure shows that Pancasila is the ideal goal of the legal system that is used as a guideline for lower regulations. In the preparation of legislation, Pancasila must be the main reference. This is aimed at the implementation of the regulations under it can be approved by community members, considering that Pancasila is a core reflection of the individual and character of the Indonesian people. Therefore, if there is a deviation from the values of Pancasila or contrary to the regulations that are above it in the hierarchy, then the legal product can be declared invalid and can be cancelled.

According to (Fadhilillah & Yusuf, 2021), it is concluded that the HIP Bill does not have legal certainty and benefits because it is not by Pancasila which is the source of all legal sources in Indonesia. The bill is considered inconsistent with the values of Pancasila, which is the main basis for the formation of laws in Indonesia. In addition, the bill is also considered useless because it causes uproar in the community. As a result, this bill is

considered to provide no benefits to the community and can even cause instability or social tension.

Based on these findings, research shows that the HIP Bill has an impact on the position of Pancasila as the highest source of law in Indonesia. Although the bill has good intentions to strengthen the practice of Pancasila in the life of the country, however, various criticisms have been raised, especially related to concerns about the potential weakening of Pancasila values. The public's response to the HIP Bill has varied, with the majority criticizing it.

## **Conclusion**

The pros and cons of the HIP Bill reflect the complexity of sociolegal issues related to the existence of Pancasila in the context of Indonesia's pluralistic society. On the one hand, supporters of this bill argue that aligning the law with Pancasila values will strengthen the ideological foundation of the state and ensure that the nation's noble values become the foundation of all activities. They believe that this bill can strengthen the unity and unity of the nation and encourage a better understanding of Pancasila among the public. However, on the other hand, critics highlight some controversial aspects of this bill. They argue that the interpretation of the trisila in the HIP Bill is not in line with the version of Pancasila that is widely accepted by the people of Indonesia. In addition, the absence of the MPRS tap that regulates the dissolution of the PKI in the bill raises concerns that the removal of the reference may give the impression that the government does not recognize the history of the dissolution of the PKI, which is considered an important moment in Indonesia's history. In addition, there are concerns that this bill could be misused for certain political interests that could damage social harmony and stability in Indonesia.

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