

## **Pancasila Values Were Forgotten In The Formation Of Indonesian Legislation**

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**Submission**

2023-Des-05

**Review**

2024-Feb-20

**Accepted**

2024-May-20

**Publish**

2024-jun-26

**Abstract**

*the ideology of the Indonesian nation, is considered to have been neglected in the formation of legislation. As is known, Pancasila, as the source of all sources of state law, is interpreted as the principles or foundation for thinking and acting in the formation and enforcement of legislation. Empirically, the values of Pancasila have been forgotten as principles, both in abstracto and in concreto, leading to deviations, disharmony, and inconsistency in the formation of legislation. This study is a qualitative research using a normative juridical approach, which will explore and analyze these issues using secondary data and purposive random sampling. The analysis results show that three factors influence the neglect of Pancasila values as "principles" and the inconsistency in the use of "principles" provisions in the formation of legislation: the fluctuating disintegration of the Pancasila curriculum, the unclear and non-explicit regulation of Pancasila values as "principles" in Law No. 12 of 2011 juncto Law No. 13 of 2022 and its implementing regulations, and the inconsistency in the use of "principles" provisions in legislation. Based on these issues, it is necessary to strengthen the Pancasila curriculum, amend Article 2 by adding the phrase "Pancasila values as the principles of the content of legislation," and require the political will of the government and legislature to strengthen the curriculum and regulations for the formation of legislation.*

**Keywords:** Forgotten Value; Legislative Regulations; Pancasila.

**How to Cite:** Bambang Joyo Supeno & Sri Retno Widyorini. et.al" Pancasila Values Were Forgotten In The Formation Of Indonesian Legislation" *Jurnal Ilmiah Dunia Hukum*, 9 no. 1 (2024): 106-122. DOI : 10.35973/jidh.xxxxxx

### **1. Introduction**

Indonesia as a multi-social country has great strength in human resources and natural resources which can be used to realize the State's goals, namely to educate, prosper and protect its citizens. The 1945 Constitution of the Republic of Indonesia in the fourth paragraph formulates the aim of establishing the Indonesian State Government based on the belief in the almighty God, just and civilized humanity, Indonesian unity, and the people led by wisdom in deliberation/representation, and by realizing a social justice for all Indonesian people. This historical statement is a statement of the history of the Indonesian nation as an independent and sovereign country, which has a clear and firm direction of movement and struggle in realizing the country's goals. This historical statement describes the existence and role of Pancasila in national development. Pancasila became the main pillar after independence, as the basis for national development to achieve state goals. Pancasila with its five precepts

contains religious values and the soul of the Indonesian nation, namely divine values, human values, unity values, democratic values and social justice values. These values are the main principles in thinking, standing and acting in all aspects of life in society, nation and state. Theoretically, Pancasila is not only an ideology, but is a theory of goodness, which contains universal values. Pancasila values are good values, which are not personal, but public. Divine values apply to all religions and beliefs, human values apply to all humans with all their dignity, unity values apply to all regions within the Unitary State of the Republic of Indonesia, democratic values apply to all interests to be discussed together in reaching consensus based on mutual cooperation, and the value of social justice applies to all humans with all differences, without any discrimination in justice.

State goals through a process and achievement of legal development as part of national development. In the context of the formation of legislative regulations, Law Number 12 of 2011 which has been amended by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislative Regulations has confirmed in Article 2, that Pancasila is the source of all sources of state law. This means that Pancasila is the legal basis and theoretical basis for the formation of legislative regulations. Sudjito in his article "The State of Law in the Pancasila Perspective" states that Pancasila is the spirit/soul of national law, Pancasila as a value system has taken root in the life of the Indonesian nation, embedded in the traditions, attitudes, behavior, customs and culture of the nation, and the truth of the nation's values. Pancasila values are objective-universal.<sup>1</sup> Empirically, the formation of legislative regulations does not formulate or reflect Pancasila values in the considerations, principles or body of statutory regulations. The values of divinity, humanity, unity, democracy and social justice are forgotten in the formation of legislative regulations. Understanding Sudjito's statement will bring the Indonesian people to understand the position of Pancasila not only as the soul/spirit of national law, but also as a national ideology, which has various functions, namely:<sup>2</sup>

- a) Pancasila is the identity of the Indonesian nation.
- b) Pancasila as the ideology of the Indonesian nation and state.

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<sup>1</sup>Sunarjo, "Peradilan Sebagai Pilar Negara Hukum Dalam Perspektif Pancasila," *Jurnal Cakrawala Hukum* 19, no. 1 (2014).

<sup>2</sup>Wartoyo, *Filsafat Dan Ideologi Pancasila Teori, Kajian Dan Isu Kontemporer (Drs. Wartoyo, M.Pd.) (z-Lib.Org), Drs., 2020.*

- c) Pancasila as the basic philosophy of the State.
- d) Pancasila is the basic principle of national unity and integrity.

In the course of history, the existence of Pancasila as the basic ideology of the Republic of Indonesia has until now been used as a political tool to deceive the people and power to hide behind the legitimacy of the Pancasila ideology. The products of power are contrary to the values of Pancasila, both as the nation's ideology and the source of all state law. Collusion, nepotism and corruption behavior proliferates in an environment of power and legal development that does not use Pancasila as the basis for the formation and material of legislative regulations. Efforts to forget Pancasila began with the withdrawal of the Guidelines for the Appreciation and Practice of Pancasila (P-4), as regulated in the Decree of the People's Consultative Assembly of the Republic of Indonesia Number XVIII/MPR/1998 of the Guidelines for the Appreciation and Practice of Pancasila (Ekaprasetya Pancakarsa) and the Determination of the Affirmation of Pancasila as the Foundation of the State. Article 1 formulates Pancasila as intended in the Preamble to the 1945 Constitution of the Republic of Indonesia as the state basis of the Unitary State of the Republic of Indonesia which must be implemented consistently in state life. Article 2 formulates the Decree of the People's Consultative Assembly of the Republic of Indonesia Number II/MPR/1978 concerning Guidelines for the Appreciation and Practice of Pancasila (Ekaprasetya Pancakarsa) to be revoked and declared invalid. This revocation has had a significant negative impact on the national outlook of the Indonesian people in responding to all society, national and constitutional problems, which have no ideological guidance and direction. There has been a vacuum in the cultivation of Pancasila values for approximately 26 (twenty six) years since 1998. The Pancasila Ideology Development Agency which was formed by Presidential Regulation of the Republic of Indonesia Number 7 of 2018 is expected to fill the vacuum and be able to ground and civilize Pancasila values and develop them. national insight based on Pancasila and the 1945 Constitution of the Republic of Indonesia through its duties and functions. Presidential Regulation of the Republic of Indonesia Number 7 of 2018 concerning the Pancasila Ideology Development Agency, in Article 3 emphasizes the duties of the Pancasila Ideology Development Agency, namely: formulate policy direction for developing the Pancasila ideology, carry out coordination, synchronization and control of the development of the Pancasila ideology in a comprehensive and sustainable manner, and carry out the preparation of standardization of education and training, organize education and training, and provide recommendations based on the results of studies of

policies or regulations that conflict with Pancasila to high state institutions, ministries/institutions, regional governments, socio-political organizations, and other components of society.

The Pancasila Ideology Development Agency, in carrying out its duties and functions, provides recommendations based on the results of studies on policies or regulations that conflict with Pancasila to high state institutions, ministries/institutions, regional governments that have never been implemented. The Ministry of Home Affairs and the Ministry of Law and Human Rights which are involved in facilitating, evaluating and harmonizing the formation of legislative regulations have not been able to restore the forgotten values of Pancasila.

Empirically, from 1998 until now the values of Pancasila have been forgotten in social, national and state life. The Pancasila Ideology Development Agency has not been able to ground and civilize the values of Pancasila. This is proven by the low level of society which does not appreciate and respect each other, blasphemes each other, attacks each other's religions, social disorganization, national disorganization, intolerance, radicalism, violations of human rights, abuse of authority/position and increasing corruption crimes committed by members of the community, state administrators, and there is no exemplary attitude and behavior. This condition has an impact on public distrust of the leadership of a regime. Kaelan is of the opinion that currently the life of the Indonesian state, the political system, people's sovereignty, the realization of the form of the State, the democratic system, State power, political parties and regional autonomy, appear inconsistent with the philosophical basis of the State of Pancasila.<sup>3</sup>

State sovereignty should be placed in the people, but in reality it stops with the power of the State's political elite, State authorities, political parties and capitalist circles. Empirically, juridically, in the formation of legislative regulations, it does not formulate or partially formulates the values of Pancasila as the principles of statutory regulations, including:

- a) Regulations that do not formulate Pancasila values include Law Number 23 of 2014 concerning Regional Government, Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation

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<sup>3</sup> Ridho Iswardhana, *Pendidikan Pancasila Dan Kewarganegaraan - Google Books, 2020, 2020.*

- b) Regulations that formulate a small portion of Pancasila values include Law Number 6 of 2014 concerning Villages (deliberation/democracy), Law Number 35 of 2009 concerning Narcotics (justice and humanity), Law Number 22 of 2022 concerning Corrections (humanity), Law Number 7 of 2017 concerning General Elections (fair).

The absence of Pancasila values as a principle in statutory regulations is more concerning in the formation of regional regulations that do not formulate principles, both Pancasila principles and other principles, such as Surabaya City Regional Regulation Number 7 of 2023 concerning Regional Taxes and Regional Retributions, Yogyakarta Special Region Regulation Number 11 of 2023 concerning Regional Taxes and Regional Levies, Karanganyar Regency Regional Regulation Number 6 of 2023 concerning Implementation of Environmental Protection and Management. The formation of legislative regulations tends to use principles that are outside the values of Pancasila, so that this gap becomes a consideration for analyzing and constructing Pancasila values as fundamental "principles" in the formation of legislative regulations.

In principle, research examining the values of Pancasila in the context of the formation of legislation in Indonesia has been extensively studied by previous researchers. For instance, Khairul Umam's study, titled "Normativization of Pancasila Values in the Formation of Regional Regulations to Realize Sustainable Legal Development," revealed that normativization of Pancasila values in the formation of regional regulations is an urgent step to achieve sustainable legal development. This research indicates that Pancasila values function as a system of norms, a guiding star, a system of behavior, and a system of validity in the formation of regional regulations, thereby ensuring legal certainty and addressing public rejection of new legal products.<sup>4</sup>

The second study, conducted by Oksep Adhayanto and titled "Implementation of Pancasila Values as the State Ideology in the Formation of Legislation," found that Pancasila, as the state ideology of Indonesia, acts as a unifying medium in the life of society, nation, and state. In the context of law, especially in the formation of legislation, Pancasila should be considered a source of material law. The values of Pancasila need to be more deeply explored in the

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<sup>4</sup>Khairul Umam, "Normativisasi Nilai-Nilai Pancasila Dalam Pembentukan Peraturan Daerah Untuk Mewujudkan Pembangunan Hukum Yang Berkelanjutan," *Unes* 5, no. 4 (2023).

philosophical and sociological foundations during the legislative formation process.<sup>5</sup>

The last study, conducted by Fendi Setyawan and titled "Institutionalization of Pancasila Values in the Formation and Evaluation of Legislation," found that to ensure legislation aligns with Pancasila values, a legal instrument as an indicator in the formation and evaluation of such legislation is necessary. This study discovered that BPIP (Badan Pembinaan Ideologi Pancasila) and BPHN (Badan Pembinaan Hukum Nasional) have developed and used Pancasila values indicators for evaluation, study, analysis, and alignment of legislation. This instrument needs further development and should be included in the annex of Law No. 12 of 2011 concerning the Formation of Legislation to provide clear guidance for lawmakers. Additionally, strengthening and synergy among legislative institutions are required to institutionalize Pancasila values.<sup>6</sup>

When analyzed against previous research, the author's study holds originality as it focuses on the empirical examination of the neglect of Pancasila values in the formation of legislation, while previous research focused more on the normativization and integration of Pancasila values in regional regulations and legislative evaluation. Therefore, this study aims to provide an overview of the issues related to Pancasila, which, as the ideology of the Indonesian nation, is considered to have been forgotten in the formation of legislation.

## **2. Research Method**

The research method used in developing the concept of Pancasila values as fundamental "principles" in the formation of legislative regulations is qualitative research, which presents substantive and systematic written statements on an ongoing basis using legal logic and harmonization and synchronization of legislative regulations related to Pancasila. Anselm Strauss & Juliet Corbin stated that qualitative research is a type of research whose findings are not obtained through statistical procedures or other forms of calculation.<sup>7</sup> This means that in compiling research results we do not use statistical calculations or mathematical figures, but instead express quality, scientific and systematic statements in legal language. John W. Creswell stated

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<sup>5</sup>Oksep Adhayanto, "Implementasi Nilai-Nilai Pancasila Sebagai Dasar Negara Dalam Pembentukan Peraturan Perundang-Undangan," *Jurnal Ilmu Hukum* 6, no. 2 (2016), <https://doi.org/10.30652/jih.v5i2.3599>.

<sup>6</sup>Fendi Setyawan, "Institusionalisasi Nilai Pancasila Dalam Pembentukan Dan Evaluasi Peraturan Perundang-Undangan," *Jurnal Legislasi Indonesia* 18, no. 2 (2021), <https://doi.org/10.54629/jli.v18i2.819>.

<sup>7</sup>Anselm dan Julliet, "Dasar-Dasar Penelitian Kualitatif Prosedur (Teknik Dan Teori)," *Grunded, PT. Bina Ilmu*, 1997.



that qualitative research is a process of investigation to understand social problems or human problems based on creating a complete holistic picture formed with words, reporting the informant's views in detail, and arranged in a natural setting.<sup>8</sup> The juridical-normative approach method is the choice in analyzing and constructing Pancasila values as fundamental "principal" provisions in the formation of statutory regulations, by taking secondary data samples of statutory regulations using purposive random sampling.<sup>9</sup>

### 3. Research Results and Discussion

Pancasila is a collection of values that have been agreed upon by the founders of the Indonesian nation to become a national consensus or noble agreement that must be a guideline in the life of society, nation and state.<sup>10</sup> Pancasila as a way of life is essentially a value system whose truth is believed to be the basis or guideline for people in life in society, nation and state. Pancasila as an ideology contains national values in an open thinking system, meaning that Pancasila values are instilled, practiced and implemented in each generation and are prepared to face changing times. The values contained in Pancasila are systematic and rational which provide hope, optimism and inspire the motivation to aspire to, as formulated in the Preamble to the 1945 Constitution of the Republic of Indonesia. The values of Pancasila are good values for the Indonesian nation which multi social. Agus Wahyudi stated that the theory of goodness is a theory about public morals or community morals which contains a collection of teachings about universal "nature or characteristics".<sup>11</sup> Pancasila as national identity contains character values, divine values, human values, unity values, democratic values and social justice values. The values of Pancasila animate each other and are inspired by its precepts, such as the first precept animating the second precept, the second precept animating the third precept and so on. Pancasila contains material causal values, meaning there is a causal relationship in the application of its values. For example, divine values regulate human relationships with the creator. If their relationship with God is good, then their relationship with fellow humans will also be good, in this case it is about human values. This means that divine values and human values have

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<sup>8</sup>J W Creswell, "Research Design Qualitative Quantitative and Mixed Methods Approaches," *Research Design Qualitative Quantitative and Mixed Methods Approaches*, 2003, <https://doi.org/10.3109/08941939.2012.723954>.

<sup>9</sup>Friday Nyimbili and Leah Nyimbili, "Types of Purposive Sampling Techniques with Their Examples and Application in Qualitative Research Studies," *British Journal of Multidisciplinary and Advanced Studies* 5, no. 1 (2024), <https://doi.org/10.37745/bjmas.2022.0419>.

<sup>10</sup>Aga Wiranata, "Pancasila Sebagai Sumber Hukum Dan Pengaruh Politik Dalam Pembentukan Hukum Nasional," *Jurnal Insan Pendidikan Dan Sosial Humaniora* 1, no. 1 (2023), <https://doi.org/10.59581/jipsoshum-widyakarya.v1i1.73>.

<sup>11</sup>Fiona Indah Setia Putri and Keisha Mumtaz Tsabita Adam, "Implementas Nilai-Nilai Pancasila Dalam Membangun Karakter Bangsa," *Indigenous Knowledge* 1, no. 2 (2022).

a reciprocal relationship.<sup>12</sup> Explanation of the values of each Pancasila principle in the context of the formation of legislative regulations as mentioned below.<sup>13</sup>

- a) First Principle "Belief in One Almighty God" The value of faith and devotion to God Almighty shows that the Indonesian people in administering the State, politics, government, law and the formation of laws and regulations are carried out according to the values of Belief in One Almighty God. This means that the provisions of statutory regulations do not conflict with the values of the Almighty God.
- b) Second Principle "Just and Civilized Humanity" Humane values that are just and civilized indicate that the State should elevate human status and dignity. The substance of statutory regulations is based on human values, where the substance of statutory regulations does not demean and/or does not damage humans and their lives by protecting the environmental ecosystem.
- c) Third Principle "Indonesian Unity" The value of unity shows a feeling of love for one's country or nationalism, and being able to live peacefully without worrying about differences. The substance of statutory regulations is used to unite existing differences such as diversity of individuals, ethnicities, races, classes, groups, as well as differences in religion or belief, and Indonesian society must be able to improve itself in unity and unity.
- d) Fourth Principle "A People Led by Wisdom in Representative Deliberations" Popular values through democracy in solving a problem are carried out by carrying out negotiation activities and showing mutual respect for opinions in the interests of the people. The formation of legislative regulations must go through stages of formation involving community participation.
- e) Fifth Principle "Social Justice for All Indonesian People" The principles of social justice contain the meaning that society can have a caring attitude towards others, and preserve and maintain the balance of the environmental ecosystem. The substance of statutory regulations is carried out to realize prosperity and justice for the people without discrimination.

The development of Pancasila values, both in the form of regulations and practice, is very necessary as a conscious effort that is planned, systematic, integrated and sustainable. The government, regional government, community and other stakeholders carry out Pancasila development in order to develop

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<sup>12</sup>T Heru Nurgiansah, "Pendidikan Pancasila Sebagai Upaya Membentuk Karakter Jujur," *Jurnal Pendidikan Kewarganegaraan* 9, no. 1 (2021).

<sup>13</sup>Aliet Arvitto Putra, "Pancasila Sebagai Sumber Dari Segala Sumber Hukum (Analisis Sejarah Hukum Atas Rezim Reformasi)," *Kumpulan Jurnal Mahasiswa Fakultas Hukum*, 2019.



and practice Pancasila values, as well as strengthen the national perspective in social, national and state life.<sup>14</sup> The Republic of Indonesia which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia respects and upholds human dignity. Human rights as basic rights that are naturally inherent in humans are universal, need to be protected, respected and maintained through the implementation of Pancasila values and a national perspective within the framework of the Unitary State of the Republic of Indonesia. The government has responsibilities and obligations towards the development of Pancasila, so that tolerance can be realized between people, mutual respect and respect for the rights and obligations in carrying out social, national and state life within the framework of the Unitary State of the Republic of Indonesia. Pancasila as the spirit/soul of the Indonesian nation and the source of all sources of State law should be a fundamental "principle" provision in the substance of statutory regulations. There are several factors underlying the values of Pancasila being forgotten in the formation of Indonesian legislation:<sup>15</sup>

a) Pancasila Curriculum

Pancasila education is an effort to build a soul with Pancasila character and a national outlook. In connection with character education, Berkowitz gives the meaning that, "Character as an individual's set of psychological characteristics that affect that person's ability and inclination to function morally." Ratnawati in research on factors that influence character education shows that, "The character of each individual is influenced by internal factors and external factors". The explanation is: Internal factors are factors that can be supporting or inhibiting factors that originate from within the individual. This factor is related to the interpersonal (skills in relating to other people) and intrapersonal (skills in managing oneself) that a person has. External factors are factors that are influenced by the surrounding environment.<sup>16</sup>

Pancasila education has experienced fluctuations in the national curriculum, where there have been efforts to eliminate Pancasila in the education curriculum. Pancasila as a mandatory curriculum was once removed from statutory regulations, namely through Law Number 20 of 2003 concerning the National Education System, in Article 37 formulating that the primary and secondary education curriculum must contain religious education, citizenship education, language, mathematics, natural

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<sup>14</sup>Gerry Geovant and Supranata Kaban, "Penggunaan Cita Hukum (Rechtsidee) Pancasila Sebagai Mercusuar Bagi Politik Hukum Pidana Di Indonesia," *Soedirman Law Review* 5, no. 2 (2023).

<sup>15</sup>Adri Yanto Adri, "Islam Dan Kritisasi Keberadaan Pancasila Dalam Pembentukan Peraturan Perundang-Undangan," *As-Syifa: Journal of Islamic Studies and History* 2, no. 2 (2023), <https://doi.org/10.35132/assyifa.v2i2.537>.

<sup>16</sup>Sofyan Mustoip, Muhammad Japar, and Zulela Ms, *Implementasi Pembentukan Karakter, A Psicanalise Dos Contos de Fadas. Tradução Arlene Caetano*, 2018.

sciences, social sciences, arts and culture, physical education and sports, skills/vocations, and local content. The higher education curriculum is obliged to contain religious education, citizenship education and language, resulting in sharp criticism of Law Number 20 of 2003 concerning the National Education System which does not include Pancasila as a mandatory curriculum. In response to this criticism, the Government established several laws and regulations including Pancasila as a mandatory curriculum, as formulated in:

1. Law Number 12 of 2012 concerning Higher Education;
2. Decree of the Director General of Higher Education Number 84/E/KPT/2020 concerning Guidelines for Implementing Compulsory Courses in the Higher Education Curriculum; And
3. Minister of Religion Regulation Number 31/2020 concerning Islamic Boarding School Education.

However, along the way, Government Regulation Number 57 of 2021 concerning National Education Standardization in Article 40 paragraph (2) and paragraph (3) was issued which did not include Pancasila as a Compulsory Curriculum. The public reacted again to efforts to eliminate Pancasila as a mandatory curriculum, and Government Regulation Number 57 of 2021 concerning National Education Standardization was amended by Government Regulation Number 4 of 2022 by including Pancasila Education as a mandatory curriculum in primary, secondary and higher education, which was then implemented one of which is strengthened by the Minister of Education, Culture, Research and Technology Regulation Number 7 of 2022 concerning Content Standards for Early Childhood Education, Basic Education Levels and Secondary Education Levels.

Pancasila is one of the material contents in national insight which is not included in the educational curriculum, strengthening the development of Pancasila ideology cannot be implemented, which ultimately leads to social disorganization and national disorganization, which will have a strong influence on hampering regional and national development. Pancasila education aims to build national character based on the values of divinity, humanity, unity, democracy and social justice. The character education is very urgent to be implemented, especially in Early Childhood Education up to Elementary School, because students at this time need moral education that is able to translate abstract principles about right and wrong, so that it can be preventive in overcoming problems. attitudes and behavior in the educational sphere. This is in line with Hurlock's opinion that, "Moral development in early childhood is still at a low level, so they are not able to apply abstract principles of right and wrong." Ki Hadjar

Dewantara, said that educational efforts (dance) are aimed at (a) refinement of the mind, (b) intelligence of the brain and (c) health of the body. These three efforts will make humans complete and harmonious. Education is an effort to form a human being who is complete physically and mentally, namely intelligent, healthy and with noble character.<sup>17</sup> Character can be considered as the values of human behavior related to God Almighty, oneself, fellow humans, the environment and nationality which are manifested in thoughts, attitudes, feelings, words and actions based on religious norms, law, culture, customs and aesthetics. Character is composed of three interrelated parts, namely: moral knowing (moral knowledge), moral feeling (moral feelings), and moral behavior (moral behavior). Good character consists of knowledge of goodness (knowing the good), desire for goodness (desiring the good), and doing good (doing the good). In this case, it requires habituation in thinking (habits of the mind), and habituation in feelings (habits of the heart), and habituation in action (habit of the action).<sup>18</sup> The Pancasila curriculum has a great influence on the knowledge, understanding and comprehension in applying Pancasila values by those forming laws and regulations.

#### b) Regulations

Law Number 12 of 2011 as amended by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislative Regulations, Article 2 states that Pancasila is the source of all sources of State law. This provision means that the substance of the legislation is based on the values of Pancasila. The Law does not state Pancasila as a "principal" provision of statutory regulations, in Article 5 and Article 6 it states that in forming Legislative Regulations it is based on the principles of formation and substance of statutory regulations. The principles of forming good legislative regulations, which include clarity of objectives, appropriate institutions or officials forming them, suitability between type, hierarchy and material content, can be implemented, effectiveness and usefulness, clarity of formulation and openness.

The substantive principles of legislative regulations include protection, humanity, nationality, kinship, archipelago, unity in diversity, justice, equality of position in law and government, legal order and certainty; and/or balance, harmony, and alignment.

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<sup>17</sup>Wasitohadi Wasitohadi, "Hakekat Pendidikan Dalam Perspektif John Dewey Tinjauan Teoritis," *Satya Widya* 30, no. 1 (2014), <https://doi.org/10.24246/j.sw.2014.v30.i1.p49-61>.

<sup>18</sup> Jaya Nainggolan, "Lingkungan Pembelajaran Dalam Implementasi Pendidikan Karakter," *Jurnal Pendidikan Indonesia: Teori, Penelitian, Dan Inovasi* 2, no. 2 (2022), <https://doi.org/10.59818/jpi.v2i2.501>.

Principles are essentially the basis for thinking and acting in compiling and enforcing statutory regulations. Principles can be said to be the guardrails for drafting and enforcing laws so that legal objectives can be realized. Pancasila values as material principles for the content of legislation are interpreted to mean that the preparation and enforcement of regional regulations must not conflict with divine values, human values, unity values, popular/democratic values and justice values.

Law Number 12 of 2011 concerning the Formation of Legislative Regulations with all its amendments does not expressly state that Pancasila is the substantive "principle" provision of statutory regulations, but some of the Pancasila values are reflected in the substantive principles of statutory regulations, such as humanity (Human values), archipelago, diversity and nationality (Unity Values), equality of position in law and government (Democracy Values), and justice (Justice Values), while divine values are not used as a basis for the material content of legislative regulations .

Weaknesses of Law Number 12 of 2011 concerning the Formation of Legislative Regulations with all its amendments which do not specify the values of Pancasila as the "principal" provisions of the material content of statutory regulations have the impact of forgetting the values of Pancasila. There are several laws and regulations that do not contain Pancasila values, because they do not contain as principles the material content of laws and regulations, including:

1. Law Number 1 of 2022 concerning Financial Relations Between the Central Government and Regional Governments; And
2. Law Number 9 of 2018 concerning Non-Tax State Revenue;

Regional regulations that do not contain the material content principles of statutory regulations, include:

1. Karanganyar Regency Regional Regulation Number 10 of 2022 concerning Openness of Public Information;
2. Karanganyar Regency Regional Regulation Number 12 of 2022 concerning the Implementation of Green Open Space;
3. Boyolali Regency Regional Regulation Number 16 of 2021 concerning Buildings; And
4. Boyolali Regency Regional Regulation Number 12 of 2021 concerning Public Service Levy.

Most of the laws and regulations that contain principles do not contain divine principles, with the exception of Law Number 18 of 2019 concerning Islamic Boarding Schools.

Samples of statutory regulations that do not contain Pancasila values as the material principles of the legislative content or statutory regulations that contain some of the Pancasila values prove that Pancasila values are not a juridical obligation, so that Pancasila values are forgotten and/or there are inconsistencies in the application of "principles" provisions in statutory regulations. Law Number 13 of 2022 concerning the second amendment to Law Number 12 of 2011 concerning the Formation of Legislative Regulations in Appendix II number 98 formulates that the general provisions contain:<sup>19</sup>

1. limits of understanding or definition;
2. abbreviations or acronyms stated within the meaning or definition; and/or
3. Other matters of a general nature that apply to the following article or several articles include provisions that reflect the principles, aims and objectives which can be formulated in the general provisions chapter or a separate chapter.

Presidential Regulation Number 87 of 2014 as amended by Presidential Regulation Number 76 of 2021 concerning Amendments to Presidential Regulation Number 87 of 2014 concerning Implementing Regulations of Law Number 12 of 2011 concerning the Formation of Legislative Regulations does not regulate the use of principles. Article 51 places Pancasila as an ideological guide in harmonizing, unifying and strengthening the conception of the Draft Law.

Law Number 12 of 2011 concerning the Formation of Legislative Regulations, Article 2 which states that Pancasila is the source of all sources of State law should be amended with the formulation of the provisions that read "Pancasila is the source of all sources of State law and Pancasila values are the material principles of the content legislation." Changes in the formulation of these provisions will serve as guidance and direction for the formulation of "principles" of content material clearly and firmly in every statutory regulation. Regional regulations which are part of statutory regulations as stipulated in Article 7 of Law Number 12 of 2011 concerning the Formation of Legislative Regulations as amended by Law Number 13 of 2022 are technically formed based on Minister of Home Affairs Regulation Number 80 of 2015 as amended by Minister of Home

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<sup>19</sup>Marzuki, J Ginting, and M, A Pasaribu, "Penerapan Nilai-Nilai Pancasila Dalam Kehidupan Masyarakat," *Jurnal Hukum Dan Kemasyarakatan Al-Hikmah* 3, no. 2 (2022).



Affairs Regulation No. 120 concerning the Establishment of Regional Legal Products. The two ministerial regulations do not formulate Pancasila values as "principal" provisions in the content of regional regulations. The indecisiveness of the Ministry of Home Affairs and the Ministry of Law and Human Rights in directing Pancasila values as the material principles of regional regulations strengthens the forgetting of Pancasila values in the formation of legislative regulations.

c) Political Will

The problem of Pancasila values as "principal" provisions in the content of statutory regulations, both laws, provincial regional regulations and district/city regional regulations, is that there are unequal placement of "principal" provisions in the regulatory structure and inconsistency of Pancasila values as provisions" principles" material content of statutory regulations. Legislative regulations regarding the formation of statutory regulations do not regulate clearly and firmly the values of Pancasila as the "principal" provisions of the content of statutory regulations. Appendix II Number 98 of Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislative Regulations confirms that the placement of "principles" provisions is part of the General Provisions Chapter or can be regulated in a separate chapter together with terms of "purpose" and "purpose".<sup>20</sup> These provisions are different from the formulation of Law Number 12 of 2011, in that the "principles" provisions are integrated with the general provisions chapter in the statutory regulations. These provisions do not allow the Government, Provincial Regional Governments and Regency/City Regional Governments to understand and comprehend the "principles" provisions which are part of the material content structure of statutory regulations. This lack of understanding can be shown from the legislative regulations that are formed inconsistently in including "principal" provisions, where in one country/region at the same level of regulation there are different ones, some formulate "principal" provisions and there are those who do not formulate "principal" provisions. The government and/or legislature do not have the political will to include "principles" provisions as limiting signs so that in enforcing regulations they do not deviate from these signs, namely the values of Pancasila. The "principles" provisions must contain Pancasila values, and remain open to adding other values in accordance with the regulatory object. Muzayin stated that Pancasila is the understanding and character of Indonesian society, where all the characteristic values have played a role nationally and become the basis of national civilization, so it can be said that the

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<sup>20</sup>Hesti Armiwulan et al., "Kajian Pancasila Dalam Peraturan Gubernur Jawa Timur Tentang Pedoman Umum Pengelolaan Dana Bergulir Provinsi Jawa Timur," *Pancasila: Jurnal Keindonesiaan*, 2021, <https://doi.org/10.52738/pjk.v1i1.7>.



values contained in Pancasila are a form of actualization of ideals. or the life goals of the Indonesian people. Strengthening regulations on laws relating to the formation of laws and regulations must be carried out in the context of harmonization and synergy in the formation of laws and regulations, both the structure of regulations and the substance of Pancasila values as the source of all sources of State law.

## **4. Closing**

### **4.1. Conclusions**

The "principles" provisions have been formulated in Appendix II Number 98 of Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislative Regulations which can be included in the general provisions chapter or a separate chapter. The material content of the "principles" provisions originating from Pancasila values is not clearly and unequivocally determined, only in Article 2 it states that Pancasila is the source of all sources of State law. The material principles of statutory regulations are reflected in Article 6 which contextually reflects the values of Pancasila, except for divine values. Empirically, the values of Pancasila which should be the "principal" provisions of the content of statutory regulations are forgotten in abstracto (regulations) and in concreto (formation of regulations). Inconsistencies also occur in the use of "principal" provisions, some use "principal" provisions and others do not use "principal" provisions at the same regulatory level. The government and legislature do not have the political will to resolve the forgotten values of Pancasila and the inconsistency in the use of "principal" provisions.

### **4.2. Suggestions**

The forgotten values of Pancasila in the content of statutory regulations and the inconsistency in the use of "principles" provisions in the content of statutory regulations should be resolved by deepening and strengthening the Pancasila curriculum, strengthening regulations by changing the formulation of Article 2 of Law Number 12 of 2011 Pancasila is the source of all sources of state law and Pancasila values as the material principles of the content of statutory regulations.

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