



LAW ENFORCEMENT AGAINST FOREST FIRE BASED ON PANCASILA IDEOLOGY

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Abstract: *Forest fire law enforcement carried out by formal institutions, such as courts and the government shows a formalist, deterministic attitude, the law is understood narrowly and involuntarily even uprooted from the ideological/philosophical roots of Pancasila. The attitude of law enforcers who often ignore the community's sense of justice with controversial and discriminatory decisions adds to a series of law enforcement problems. local wisdom in Indonesia. This legal paper uses a philosophical approach to examine in depth the ideology of Pancasila in forest fire law enforcement. The source material in this paper is obtained from observations, research and literature study. Laws, especially those relating to the Environment, fail to transform the ideological/philosophical foundation of Pancasila which has become the values and spirit for the long journey of the Indonesian nation. This happens due to the lack of attention to local wisdom and national interests. The theory put forward by Robert B. Seidman, namely "The Law of Non-Transferability of Law" concludes that the law of a nation cannot be taken over, without having to take over the aspects that surround (the socio-cultural aspect) where the law stands. To borrow Satjipto Rahardjo's term, law does not exist in a vacuum, but it exists together with other social sub-systems, within a wider social system.*

Keywords: *Pancasila Ideology, Indonesia Law, Local Wisdom.*

I. INTRODUCTION

The government does not yet have a long-term policy resolution to deal with fires that occur almost every year. Existing fire management still revolves around fire prevention and suppression techniques. The case of forest fires in Indonesia is a structural problem of natural resource management, which can only be solved by a progressive policy, legal and institutional approach. Without intervention at the policy, legal, and institutional levels, the fire problem in Indonesia will never be permanently resolved. Most of the fires occurred in plantation concessions and industrial forest plantations (HTI). This is a form of management failure carried out by concession holders who do not involve the community around the area as working partners with equal positions.¹

¹Elviandri, "Bid on Forest Fire Law Enforcement From Progressive Law Towards a Prophetic Paradigm", *Equitable Journal*, Vol. 4, No. 2, 2019, p. 103.

In the context of this forest fire, according to Elviandri, there are several things that serve as justification for multinationals/Multi-National Corporations (MNCs) to continue this activity from a legal and economic perspective. First, economic motivation is indeed a dominant factor at a more massive level. Second, the tendency of the current weak law enforcement efforts to make multinationals/Multi-National Corporations (MNCs) consider them less likely to be subject to sanctions. This proves that the law has not yet become a commander who can be relied upon to provide a deterrent effect on land burners that cause smog. Third, The current legal discourse on forest fires in Indonesia still places corporations as legal subjects only at the normative level, which reduces the opportunity to punish the perpetrators of forest fire crimes. Fourth, negligence, and the lack of control from both the central and local governments, increase the opening for multinational companies/Multi- National Corporations (MNCs) that are entrenched and sheltered under the banner of capitalism and ignore aspects of forest fires. Fifth, the government's incompetence in imposing strict sanctions such as revocation of operational permits or freezing of company activities. This is due to pressure from multinationals/Multi- National Corporations (MNCs) on behalf of the community. Because by being given an operational permit, it can absorb labor and reduce unemployment.²

Roberto M. Unger said that understanding the law cannot be free from its context. The law does not work in a vacuum but works in a reality that is not neutral from other influences, and the value behind it is subjective. Law is not something that occurs naturally, but is socially constructed. Therefore, the use of laws that are only formal in nature will fail to address societal problems.³Law enforcement on forest fires by formal institutions, such as courts and the government, has so far not moved away from a formal and procedural positivist approach. Law enforcement officials in responding to and resolving various forest fire problems show a formal, deterministic attitude, and provide opportunities for exploitative behavior among business actors (investors).⁴Therefore, such an approach needs to be ended immediately, replaced by using Pancasila ideology as the basis for forest fire law enforcement, thus means that we are committed to confirming the authenticity of Indonesian law based on local wisdom starting from the awareness that grows from all circles and have concern for forest and environmental conservation to understand that the problem of forest fires has reached an alarming level. Therefore, the involvement and participation of the community, especially from local indigenous peoples, to preserve forests for the future with the spirit and efforts of local wisdom is necessary.⁵

²*Ibid.*

³Roberto M Unger, *The Critical Legal Studies Movement*, translated Ifdhal Kasim, Jakarta: Elsam, 1999, p. 22.

⁴Absori, "Enforcement of Environmental Law in the Reformation Era", *Journal of Legal Studies*, Vol. 8, No. 2, 2005, p. 233.

⁵Tri Rusti Maydrawati, "A Review of Environmental Law and Its Policies on the Protection and Management of Biodiversity", *Journal of Legal Perspectives*, Vol. 16, No. 1, 2016, p. 20.

II. DISCUSSION

The Relationship Between Pancasila, Values, Ideology, and Legal Principles

Pancasila values are not enough to be interpreted singly. Pancasila in its reading must be plural.⁶Pancasila values cannot be seen hierarchically, because in Pancasila there is no value higher than other values or one value dominates another. Thus, in the context of non-systematic law, Anton F. Susanto sees Pancasila as a pattern of gradation relations between the precepts in Pancasila itself and is not hierarchical in nature. Anton considers Pancasila to be equal, no precepts are higher than other precepts and what is more important and fundamental is that there is no binary opposition logic in the reading of Pancasila.⁷So with this kind of deconstruction, the hierarchical arrangement is pyramidal, qualifying each other, encompassing and animating into something that is not necessary.⁸

Pancasila functions as a text or concept whose contents contain different values from one another. The difference does not have to be made the same with the intention of having harmony which later becomes the paradigm of Indonesian people's life in a value system that is reflected in differences or plurality in all aspects of life.⁹Pancasila must also be understood as a human experience, not just an arrangement of abstract concepts in the mind and only being words spoken in a mere public space.¹⁰The work that should never stop for anyone is to always try to give new meaning to the values of Pancasila, so that the values contained therein remain relevant to the times. This becomes very important when these values will be realized into legal norms, then our understanding of law is no longer a single understanding but plural and can change.¹¹

Pancasila as a value in addition to being a source of legal order or a source of law, philosophy and outlook on life and world view (*Weltanschauung*) is also the nation's ideology.¹²So in this context, Indonesia as an adherent of Pancasila ideology must be consistent with its ideology.¹³Pancasila can be interpreted as a foundation that complements one another. As a philosophical ideological basis, it becomes the

⁶Widodo Dwi Putro, "Pancasila in the Post-Ideological Era", *Veritas Et Justitia*, Vol. 5, No. 1, 2019, p. 8.

⁷Elviandri, "Management of Water Resources in the Frame of Pancasila Ethics", National Seminar: Formation of Character and Morality for the Young Generation Guided by Pancasila Values and Local Wisdom, p.72.

⁸Anton F. Susanto, *Non-Systematic Law, Philosophical Foundations for the Development of Indonesian Law*, Yogyakarta: Genta Publishing, 2010, p. 293.

⁹*Ibid.*, p. 295.

¹⁰Elviandri and Mudji Rahardjo, "Initiating the Management of Water Resources in the Perspective of the Pancasila Ethical Frame", *Yustisia Merdeka: Journal of Legal Studies*, Vol. 2, No. 2, 2016, p. 4.

¹¹*Ibid.*, p. 297.

¹²Fais Yonas Bo'a, "Pancasila as a Source of Law in the National Legal System", *Journal of the Constitution*, Vol. 15, No. 1, 2018, p. 28.

¹³Anton F. Susanto, *Ibid.*, p. 188.

principle in building the Indonesian nation so that it can realize prosperity, not ending up being a country full of absurdities and anomalies or just metaphysics to strengthen the opinions of certain groups.¹⁴Pancasila in the context of ideals should be relevant to the reality of the foundation of ideal values. The formation of the various systems adopted by the Indonesian people is contained in the constitution called the 1945 Constitution, and is contained in other regulations, but the formation of the system must also be based on the most basic sources which contain various goals, ideals, as well as a mirror of personality. nation, so it is hoped that every system, policy, or regulation that is drawn up does not conflict with some of these things.

The existence of meaning for the values contained in Pancasila is the first step to reform, especially in the field of law in accordance with what the community hopes can be achieved. Although it cannot be denied that along with the times and the mixing of cultures globally, the mandate contained in Pancasila as the source of all sources of law is gradually being eroded and can lead to the depletion of the sense of nationalism and love for the Indonesian nation so that this will affect the quality of the nation. system created.¹⁵This is where Pancasila as the philosophy of the Indonesian state provides a broad and in-depth perspective on universal humanitarian issues of the Indonesian nation. Through the precepts contained in Pancasila, the Indonesian nation is expected to become a nation-state which in addition to being strong in its spiritual dimension, also has a very rooted foundation in its own human values. This is what Notonagoro describes about the relationship between the first precepts and the following precepts in Pancasila.¹⁶

Divinity is the main foothold as well as the reference for the formation of a humane life system, which in the second precept is more concentrated on fair and civilized aspects. Divinity becomes an ontological and epistemological basis in designing an Indonesian civilization that is rooted in human values itself. From these two foundations will give birth to a normativity (axiology) of life that is both intellectual and enlightening.

Pancasila-Based Forest Fire Law Enforcement

The Indonesian nation will not become a great nation if it ignores the basic values of its life. These basic values are actually reflected in the precepts of Pancasila.¹⁷Pancasila, which was born and grew up in the midst of the culture and life of the Indonesian nation, should serve as a solid foundation for realizing progressive and civilized prosperity. In essence, the need to reposition (both

¹⁴Ferry Irawan Febriansyah, "Justice Based on Pancasila as the Philosophical and Ideological Basis of the Nation", *DIH Journal of Legal Studies*, Vol. 13, No. 25, 2017, p. 1.

¹⁵Rikardo Simarmata, *Digest Law, Society & Development*, Vol. I December 2006-March 2007.

¹⁶Notonagoro, *Scientifically Popular Pancasila*, cet. 9th, Jakarta: Earth Literacy, 1955, p. 40-66.

¹⁷ Agus Sutono, Supriyono Purwosaputro, "Axiology of Pancasila", *Civis Journal*, Vol. 8, No. 2, 2019, p. 67.

conceptually and contextually) the meaning of Pancasila as an ideological-philosophical foundation is an urgent need, especially in forest management based on Pancasila ethics.¹⁸Pancasila should be interpreted as a whole and interrelated and complementary. In other words, the absence of a Pancasila principle in forest fire law enforcement, both conceptually and practically, will make this country permanently disabled. For example, when talking about the concept and practice of justice in point V, it will be a waste if we forget the concept and practice of civilized leadership in point IV. Therefore, we need leaders who side with the people, especially on forest management and conservation based on the Pancasila ideology so that social justice can be realized.¹⁹

We need Pancasila again, because it is a continuous negotiation process from a nation that is never single, cannot be fully "one", and no one can fully convince that he, his people, represent something that is Most True. We need Pancasila again, as I said above, we live in an era that is increasingly aware of the imperfection of human destiny. The existence of universal values in Pancasila should be imprinted in every aspect of community life, nation and state. These values become the foundation for sustainable development. Development must be based on the basic values of Pancasila. Within this framework, the ideology of Pancasila is realized to bridge the reality of society, nation and state with ideals which are the hopes and aspirations of the Indonesian nation.²⁰The existence of the Pancasila ideology is needed to condition the government and the people to always be at the original goal of establishing the nation. The Pancasila ideology-based forest management that the author offers in this paper are:

- a. Based on divine morality, it means that its management must prioritize divine values and must be understood as a form of fulfilling responsibility to God Almighty.
- b. Based on civilized human morality. This means that its management must involve the community and bring benefits to many people, because it involves the collective livelihood.
- c. Based on the basic value of unity. This means that its management must integrate all interests and maintain the cohesiveness that attaches this nation's entity, not privatization or commercialization that benefits certain people or institutions.
- d. Based on people's orientation. That is, its management is manifested through the participation of the people in policies taken by the

¹⁸Fokky Fuad, "Islam and Pancasila Ideology, A Dialectic", *Lex Journalica*, Vol. 9, No. 3, 2012, p. 164.

¹⁹I Wayan Swandi, "Local Balinese Wisdom for Nature Conservation", *Journal of Balinese Studies*, Vol. 7, No. 2, 2017, p. 230.

²⁰Sandra Dewi and Andrew Shandy Utama, "Pancasila as the Ideology of the Indonesian Nation and the Development of Pancasila Ideology in the Old Order, New Order and Reform Era", *Journal of Pelita Bangsa Pelestari Pancasila*, Vol. 13, No. 2, 2018, p. 20.

- government to be oriented to the interests of the people. So that its management is based on local wisdom values and not “market” wisdom.
- e. Based on social justice. This means that its management is oriented towards efforts to realize social justice in the midst of the life of the community, nation and state, not in the name of justice for investors or investors in the framework of privatization.

Through the revitalization of Pancasila ideology in forest fire law enforcement, we can confirm the authenticity of Indonesian law based on local wisdom. Therefore, we need forest management based on Pancasila ideology by prioritizing living law in the forest fire law enforcement model. On this basis, the community may continue to be encouraged and filled with enthusiasm to enlarge and strengthen their existence in realizing the Forest Fire Law Enforcement Bill which is based on several principles, First, the responsibility of the state as the holder of the mandate of power over forests and the existence of guarantees to be used as much as possible for the benefit of the community. people's prosperity. The power granted by the people to the country must not override the sovereign, namely the people in the form of people's rights to the forest as part of human rights. Second, strengthening the rights of the people as holders of state sovereignty. Therefore, forest management must be controlled by the state as an organization of people's power, not by capital owners or entrepreneurs who are only profit-oriented. Third, placing the community on greater access in order to strengthen the bargaining power of the community towards civil society. The public access includes access to public information, access to participation, and access to justice by more accommodating community rights to forests and the state's obligation to ensure that these rights can be implemented properly. Fourth, make living law or local wisdom the main ingredient in the drafting of the bill.

III. CONCLUSION

Laws, especially those relating to the environment, fail to transform the ideological/philosophical foundation of Pancasila which has become the values and spirit for the long journey of the Indonesian nation. This happens due to the lack of attention to local wisdom and national interests. The theory put forward by Robert B. Seidman, namely "The Law of Non-Transferability of Law" concludes that the law of a nation cannot be taken over, without having to take over the aspects that surround (the socio-cultural aspect) where the law stands. Although the law has the main goal of creating order, it often gives rise to what Charles Samford calls a disorder of law. Therefore, a legal culture that is rooted in the noble values of Pancasila and the 1945 Constitution must be accommodated in drafting laws and regulations for forest fire law enforcement and adopting laws that grow and develop (living law) or in people's lives (local wisdom) in forest fire law enforcement to confirm the authenticity of Indonesian law.

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