

Relation of Pancasila Morality on Law Enforcement Officials in Guarding Criminal Law Reform in Indonesia

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Abstract

This study aims to determine the form of the moral relation of Pancasila as Indonesia's legal ideology and law enforcers in guarding the reform of Indonesian criminal law. The conceptual approach was used as a basis for thinking to help answer the problem, and a qualitative analysis was carried out. The study results show that the reflection of Pancasila morality on criminal law enforcement officials in Indonesia is inspired to guide the use of their functions and powers as the primary basis of its morality. Criminal law enforcement officials with Pancasila moral insight can guard criminal law reform because of moral relations reflected in the integrity of criminal law enforcement officials. This study implies that it is necessary to optimize the realization of the integrity of law enforcement officials with Pancasila morality to realize the ideals of justice in enforcing Indonesian law. Pancasila morality can form the integrity of law enforcement officials in using their functions and authority to face the determination of other elements outside the law.

Keywords: *Morality, Pancasila, Law Enforcement Official, Criminal.*

Introduction

1. Background of the Study

Criminal law enforcement officials are classified according to their authority, from the polices to the attorneys to the judges. This classification is carried out to maintain integrity and guarantee the effectiveness of law enforcement functions in society. The existence of law enforcement officials is an implication of the rule of law as an effective and efficient means of realizing the supremacy of law. Another condition is the structural dimension of criminal law enforcement officials who have gone through the career path of the state civil apparatus and are always influenced by other elements outside the law, such as political determination and government intervention. For example, the position of the attorney as a branch of executive power opens space for intervention to carry out the function of law enforcement. This intervention is a political determination that, in a structured way, affects the authority of attorney in law enforcement (Pujiyono & Tiyas, 2017).

Political determination is difficult to deal with due to the position of law enforcement officials in the Indonesian constitutional structure, resulting in a situation that intersects with political elements. The government culminates in command, which results from political contestation, so it cannot be separated from the political will of bearers' interests

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and other elements that support its political level. As executives, for example, the police and prosecutors are objects vulnerable to political determination. The concern is that this situation will affect the function and authority to uphold the rule of law. Judges are also inseparable from this dimension because politicization is inherent in the positions of the Chief Justices of the Supreme Court and Constitutional Court. Such a situation creates a tendency for the morality of criminal law enforcement officials to decline due to the influence of elements outside the law (Achmad, 1996).

This flow degrades the quality of the use of authority and the function of criminal law enforcement officials. This degradation creates a vortex of political currents and drags cross-domain political will in the political mechanism. The government is bound vertically by a leadership structure that creates a feudalistic pattern, a culture of seniority, and a culture of power with the intended political determination. Today, various policies deviate from the state's goals, are only oriented in the economic field, and are mainly carried out as a form of adjustment to economic globalization. Some of these policies are fed by political will, so they are not objective in adjusting to the needs of the community and are more towards fulfilling the interests of certain groups (Tanya, 2011).

Policy assumptions indicating corruption and harming the state tend to increase. Indonesia is a country with a relatively high level of corruption index. Data from the International Corruption Watch (ICW) concluded that state losses due to corruption in 2018 reached IDR 9.29 trillion (Sidi, 2019). Indications of corruption make the state pay the consequences of financial losses and mental degradation (Hartono, 2016, Pujiyono, et al, 2017).

This condition should be controlled through the function of criminal law enforcement officials in maintaining the rule of law. However, there are several problems, such as juridical issues that are too binding on law enforcement officials' authority, so the law's substance resolves the legal interpretation. Attorneys' regulatory issues, for example, do not allow prosecutors to operate laws and limit the space for their functions and powers (Kristiana, 2009). The Attorney General's Office and other criminal law enforcement officials are prone to be influenced by political intervention in law enforcement matters. Such conditions provide a new perspective on the need for the reflection of Pancasila morality on law enforcers to oversee the criminal law reform in Indonesia.

Research Method

This research was doctrinal and used a conceptual approach to explore the moral values of Pancasila on law enforcement officials overseeing the reform of criminal law in Indonesia. using a legal approach, which harmonizes existing legal regulations in Indonesia, also using a conceptual approach. which is the principle that underlies the birth of regulations, namely moral principles, Pancasila and law enforcement

Discussion

1. The Reflection of Pancasila Morality on Criminal Law Enforcement Officials in Indonesia

Pancasila must be a step to solve the nation's problems. Pancasila functions as a problem-solver or answers to the problems of nation-building, order, and the foundation of unity and diversity (Putranto, 2016). Thus, Pancasila guides the resolution of national and state issues, including legal issues whose resolution can be interpreted by reflecting on Pancasila morality.

The functions and powers of criminal law enforcement officials, closely related to wisdom, are reflected in moral values. A moral relationship with the law is found, which

means that the optimization of functions and powers of criminal law enforcement officials refers to the discretion of its users. Hart writes about the influence of morality on the law. Every modern state exhibits thousands of points of morality accepted by society and broader moral ideas. This influence then affects the law significantly. Many show how the law reflects morality. The stability of the legal system depends partly on the form in which it conforms or is morally relevant, and its existence must be acknowledged (Hadjon et al., 2010). It should also be linked to the theory that separates law from morality. Laws and morals are different. Law is normatively interpreted from the substance of the text of the law, while morality refers to the highest principles of action, good or bad human behavior (Safa'at, 2016, Pujiyono, et al, 2021). Although different, Normative Jurisprudence views that there is a relationship between law and moral ideas systematically. The view of the source of law, including the adoption of morals into positive law, largely determines the law and morality relationship pattern.

Using the functions and powers of criminal law enforcement officials requires control because they are prone to political determination in the form of government intervention. It is necessary to explore Pancasila's function as Indonesia's legal ideology through the following conceptual formulation.

First, Pancasila must assert its position as a legal ideology. Pancasila oversees the Indonesian legal system as its legal ideology. A national philosophy is synonymous with the desires and character of the nation. It is impossible to take another country's philosophy to become the philosophy of one's nation because all aspects of the nation's life must be under its philosophy (Huda, 2021). Savigny constructs an organic relationship between law and national character. True law is not made but is found in the soul of the people/nation (*volkgeist*). Law management does not form principles and doctrines artificially but finds principles and doctrines in living legal values by exploring the core of the people's souls (Sidharta & Brugguink, 1999).

Pancasila is obliged to inspire all legal rules in Indonesia. Therefore, it is referred to as a legal ideology. Cotterrell interprets ideology as an idea that influences action or behavior. "Legal ideology can be thought of, then, not as legal doctrine itself but as forms of social consciousness systems of values and cognitive assumption-reflected in and expressed through legal doctrine" (Cotterrell, 1984). Ketut Rinjin stated that Pancasila as the basis of the Indonesian state has three meanings and levels: (i) as an abstract-universal basis of the state as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia; (ii) as a general collective guideline for state administration as stated in the Body of the 1945 Constitution of the Republic of Indonesia; (iii) as guidelines for specific-concrete state administration policies, such as laws, government regulations, presidential regulations, and the like (Pujiyono & Riyanta, 2020).

Second, Pancasila must inspire the use of the functions and powers of criminal law enforcement officials because of its role as a legal ideology. Pancasila is the basic moral reference for these functions and authorities factually and comprehensively. Moral values originating from Pancasila are reflected in the practical principles of implementing the functions and powers of criminal law enforcement officials, from the polices to the attorneys to the judges. The moral values of Pancasila are used as the basis for these functions and authorities. They are also embodied in the principles of morality. Law principles are not always contained in statutory regulations because of their abstract nature. The following is the law principle as a fundamental assessment rule in the legal system by Paul Scholten (Sidharta & Brugguink, 1999):

"The basic thoughts within and behind each legal system are formulated in statutory regulations and judges' decisions where individual provisions and decisions can be seen as the elaboration."

The reflection of Pancasila morality is placed as an abstract fundamental foundation in the legal system and always goes hand in hand with the law. It also serves as a control function for implementing the functions and powers of criminal law enforcement officials. Its embodiment as a rule of judgment (*waarderingnormen*) will give birth to reflections on Pancasila morality and provide a reference for implementing the functions and authority of criminal law enforcement officials in law enforcement. Therefore, criminal law enforcement officials can reflect Pancasila morality in carrying out their functions and authorities.

2. Criminal Law Enforcement Officials with Pancasila Morality Knowledge in Guarding Criminal Law Reform

Government intervention must be minimized to maintain the quality of law enforcement in Indonesia. In the Instruction of the President of the Republic of Indonesia Number 1 of 2016, dated January 9, 2016, regarding the Acceleration of Implementation of National Strategy Projects, the President of the Republic of Indonesia instructed: (1) the Working Cabinet Ministers; (2) Attorney General; (3) Chief of the National Police; (4) Cabinet Secretary; (5) Chief of Staff of the President; (6) Head of Non-Ministerial Institutions; (7) Governor; (8) Regents/Mayors, to provide support for accelerating the implementation of National Strategic Projects. The support referred is in the following: a) improve governance and the function of the Government's Internal Supervision Official in supervising the development of National Strategic Projects; b) Prioritize the process of government administration in carrying out examinations and resolution of reports of abuse of authority in the implementation of National Strategic Projects; c) The Attorney General of the Republic of Indonesia prioritizes government administration processes under Law Number 30 of 2014 concerning Government Administration before investigating public reports regarding abuse of authority in implementing National Strategic Projects. Instructions are aimed at law enforcement officials so they do not criminalize discretion.

From two perspectives, the following are the objectives of Presidential Instruction Number 1 of 2016: (i) to protect and prioritize the interests of the state in terms of accelerating development in the implementation of national strategic projects demanding the government's flexibility in carrying out its functions including the use of discretion to urge law enforcement officials not to criminalize discretion, (ii) becomes an actual form of political determination towards law. Political interests become the President's power to assess his interests using discretion to accelerate the implementation of development during his reign. It proves that political objectives can interfere with the law so that it is full of political interests. Relevant to Satjipto Rahardjo that law results from a political process (Mohammad Mahfud, 2012). The position of law always goes hand in hand with politics because the relationship influences each other.

Intervention against law enforcement officials judicially can be found in the attorney. Article 2, paragraph 1 of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia describes the position of the prosecutor's office as a government institution. The mention of the attorney as a government institution indicates its position as part of the executives. The main consequence of this position is that the attorney is not an independent institution. The position of the Attorney General as a state official appointed and dismissed by the President emphasizes that the Attorney General's Office is not independent. Integrity with moral insight is needed to overcome the limitations of the substance of the regulation.

This intervention is also found in the mechanism for selecting Chief Justice of the Supreme Court and Constitutional Court who demand politicization in their subordinates. The inauguration of Supreme Court Justices by the President and the assessment of their eligibility by the People's Representative Council are practical politicizations that affect

the morality of judges. At the same time, the proposal for Constitutional Court Judges by the President and the People's Representative Council also forms a polarization of political closeness and influences decency and morality.

Thus the reflection of Pancasila morality needs to be instilled in criminal law enforcement officials to be able to oversee the reform of criminal law, which upholds justice and the dignity of justice. As the state's substantive and moral foundation, Pancasila illustrates the limits of keeping law enforcement on track. The upper limit gives more meaning to the nature of Pancasila as the moral and state foundation. The moral foundation in question embodies the moral principle of Faith in God by implementing the functions and authorities of law enforcement officials who must prioritize moral responsibility to God. Law has a relationship with morality, as Hart reflects on the influence of morality on the law (Tanya, 2011, Suwadi, et al, 2022).

Creating law enforcement officials with Pancasila knowledge in guarding the criminal law reform in Indonesia must be based on the morality axis as a guide. Morality becomes a law-guiding corridor implemented by legal subjects and a human guide in every activity of his life that gives truth according to reason. Aristotle describes the human core as a rational moral, which views truth (theoria, contemplation) as the primacy of life (summum bonum) (Tanya, 2011). It should be remembered that, in reforming criminal law, forms of political intervention need to be avoided, and it must remain focused on the interests of developing national law that is more systematic and internalizes the principles of protecting human rights and civil liberties (Sinal, 2017).

Criminal law enforcement officials with Pancasila morality knowledge in guarding the criminal law reform must embody fair and civilized human values. Justice is the core of civilized humanity and provides a benchmark that law enforcement officials must achieve within the scope of criminal law reform. The resulting law enforcement must fulfill the sense of justice aimed at the people so that it interprets the Pancasila morality knowledge. Criminal law reform automatically has implications for the spirit of justice, which is placed as the ideal of law and as a norm or value that goes beyond the positive legal system. Criminal law reform is therefore determined in a limited way to promote the goodness of human life, which is a measure of the fairness or unfairness of a legal system (Tanya, 2011).

The position of a state as the rule of law is recognized as a regulatory framework guaranteeing human rights in the interests of justice for people. Everyone has the right to get their right to justice. Therefore, reforming the criminal law by reflecting Pancasila morality on its law enforcement officials can become a pillar of a developed rule of law state. The reform can change absolute rechtsstaat to democratische rechtsstaat (Sinal, 2017). Criminal law enforcement officials with Pancasila morality knowledge are expected to open up space that guarantees the rule of law while upholding justice as a form of recognition of human dignity as one of the elements capable of guarding criminal law reform.

Law enforcement officials with Pancasila morality knowledge in guarding the criminal law reform in Indonesia must also reflect the value of unity and oneness. In this paradigm, law enforcement officials must be guided by the public interest. Law enforcement must prioritize the people's interests and accommodate societal norms so that they have legitimacy and legitimacy for community recognition. Attorneys are one component of law enforcement. With Pancasila morality knowledge, law enforcement officials can maintain their integrity and professionalism at work (Pujiyono, P., Wiyono & Manthovani, 2019)

Conclusion

The reflection of Pancasila morality on criminal law enforcement officials in Indonesia is inspired to guide the use of their functions and powers as the primary basis of its morality. Criminal law enforcement officials with Pancasila morality knowledge can guard criminal law reform because of the moral relations reflected in the integrity of criminal law enforcement officials. The implication realizes a criminal law that accommodates the values of faith in God, justice, unity, and oneness. This study suggests that

- a. Police, Attorney General's Office, and the Supreme Court should foster Pancasila morality values in the education of Police, Prosecutors, and Judge candidates as the realization of building the integrity of criminal law enforcement officials with Pancasila knowledge.
- b. All Indonesian criminal law enforcement officials should inspire Pancasila morality as a form of integrity in facing political intervention in law enforcement.

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