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## Pancasila as a Legal Pillar in Ensuring Human Rights Protection

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### ABSTRACT

This study aims to examine the role of Pancasila as a legal pillar in ensuring the protection of human rights in Indonesia, especially after the amendment of the 1945 Constitution (*UUD 1945*) in 1999-2002. The main focus of this research is to identify how the values of Pancasila can be applied in the context of the rule of law to protect the basic rights of every individual and how Pancasila functions as the basis of the state in respecting human rights, as well as how the amendments to the 1945 Constitution strengthen the sovereignty of the people and the protection of these basic rights. This research uses normative legal research methods by analyzing constitutional texts, laws, and other scientific literature. The discussion covers the relationship between Pancasila, popular sovereignty, the rule of law, human rights, and the implementation of Pancasila principles in Indonesian legal policy. The conclusion of this study shows that Pancasila still plays an important role as the main foundation in realizing a rule of law that focuses on the protection of human rights and people's sovereignty, as well as guidelines in the development of a fair and democratic legal system.

### KEYWORDS

Human Rights;  
Pancasila; Rule  
of Law



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## INTRODUCTION

Pancasila, as the foundation of the Republic of Indonesia, plays a major role in shaping and regulating Indonesia's government, policy, and legal systems. Etymologically, Pancasila comes from the Sanskrit language, namely “*panca*” which means five, and “*sila*” which refers to principles or principles. Therefore, Pancasila can be understood as the five basic principles that form the basis of the Unitary State of the Republic of Indonesia. As an ideology that contains philosophical and ethical values, Pancasila also affirms a commitment to the respect and protection of human rights. In the era of globalization, the recognition and protection of human rights are major concerns in international relations. Indonesia, along with other countries, must ensure that the values of Pancasila are in line with globally recognized human rights principles.<sup>1</sup>

Along with that, human rights now serve as an important moral, political, and legal basis for creating a peaceful society free from injustice, fear, and persecution. Within the framework of the rule of law, the protection of human rights is an absolute element of every state based on law. As stipulated in Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, Indonesia is recognized as a state of law that upholds national law. Therefore, efforts to defend and protect human rights are an integral part of Indonesia's national legal system.<sup>2</sup>

In Indonesia, human rights have existed since the 1945 Constitution and continued to be considered until the GBHN (*Outline of State Policy*) was established in 1993. To support human rights, various regulations have been made, such as MPR Decree No. XVII/MPR/1998 on Human Rights, Presidential Decree No. 50 of 1993 which established the National Commission on Human Rights (*Komnas HAM*), and Law No. 39 of 1999 on Human Rights. In addition, Law No. 26 Year 2000 was created which regulates the Human Rights Court and the Ad Hoc Human Rights Court established to deal with special issues.<sup>3</sup>

De jure, Indonesia has also ratified several international conventions that form the basis of human rights law at the global level. One of the main sources of international human rights is the UDHR adopted in 1948, which provided the foundation for many subsequent human rights conventions. After the amendment of the 1945 Constitution between 1999-2002, there was an increase in legislation protecting human rights and post-amendment, the 1945 Constitution can be said to be a constitution that accommodates human rights. Thus, Indonesia is in line with other countries in facing human rights challenges that are increasingly complex and of global concern. In a moral context, human rights set standards for human behavior, uphold human values and are systematically protected in national and

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<sup>1</sup> Safira Kanaya Iffat Husna & Fatma Ulfatun Najicha, “Pancasila dan Hubungannya dengan Hak Asasi Manusia di Indonesia” (2023) 7:2 Civ Educ Media Kaji Pancasila dan Kewarganegaraan 104–112.

<sup>2</sup> Ana Fauzia & Fathul Hamdani, “Aktualisasi nilai-nilai pancasila dan konstitusi melalui pelokalan kebijakan Hak Asasi Manusia (HAM) di daerah” (2021) 2:2 J Indones Berdaya 157–166.

<sup>3</sup> Lukman Hakim & Nalom Kurniawan, “Membangun Paradigma Hukum HAM Indonesia Berbasis Kewajiban Asasi Manusia” (2021) 18:4 J Konstitusi 869–897.



international law. Therefore, any issue that involves the powerlessness of individuals or groups concerning life can potentially become a human rights issue.<sup>4</sup>

The protection of human rights is not only a moral demand that comes from an awareness of the dignity of each individual but also a fundamental need to create a just, prosperous, and harmonious society. The state as a responsible party must ensure that the human rights of every citizen are well guaranteed through appropriate legal policies. In this case, Pancasila acts as a source of inspiration in formulating and establishing legal policies that respect and protect individual rights, as well as a guideline in carrying out state duties to safeguard the welfare of the people. Therefore, the role of Pancasila in the context of law and human rights is very necessary to understand, so that the values contained in Pancasila can be applied in real terms in everyday life while ensuring that human rights are respected and safeguarded, and the dignity of every Indonesian citizen is well maintained.<sup>5</sup>

## METHOD

This research is normative legal research or library legal, namely legal research conducted by examining library materials or secondary data.<sup>6</sup> The approach method used is a statute approach because what will be studied are various rules of law that are the focus and central theme of the research.<sup>7</sup> In addition to the statutory approach, the approach used is conceptual, namely an approach that departs from the views and doctrines that have developed in law, especially those relating to the issues discussed in this study.

The sources of legal materials in this research are primary legal materials in the form of legislation products, secondary legal materials in the form of legal literature books, legal scientific magazines, legal journals, and various papers and other forms of legal scientific writing, tertiary legal materials in the form of legal dictionaries, encyclopedias and others that can explain primary and secondary legal materials.<sup>8</sup> The technique of collecting legal materials is carried out by inventorying various laws and regulations, and various literatures by conducting intensive discussions. The collection of research materials is also carried out through the internet to obtain various research materials to complement the materials that have been obtained from laws regulations and literature.

Processing and analysis of legal materials are carried out by classifying legal materials that have been collected, looking for their relationship with each other by using deductive and inductive reasoning to produce propositions, and legal concepts regarding supervision. The analysis used is descriptive-analytic which is carried out

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<sup>4</sup> Fathul Hamdani & Ana Fauzia, "Eksistensi Prinsip Non-Refoulement sebagai Dasar Perlindungan Bagi Pengungsi di Indonesia Saat Pandemi Covid-19" (2021) 2:1 *Rewang Rencang J Huk Lex Gen* 1–13.

<sup>5</sup> Yuli Asmara Triputra, "Implementasi Nilai-Nilai HAM Global Ke dalam Sistem Hukum Indonesia yang Berlandaskan Pancasila" (2017) 24:2 *J Huk IUS QUIA IUSTUM* 279–300.

<sup>6</sup> Soerjono Soekanto & Sri Samudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta: Raja Grafindo Persada, 2007).

<sup>7</sup> Johnny Ibrahim dan Junaedi Efendi, *Metode Penelitian Hukum* (Depok: Prenada Media, 2018).

<sup>8</sup> Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).



by describing, examining, systematizing, interpreting, and evaluating positive law.<sup>9</sup> In addition, analysis of the legal materials obtained is also carried out using qualitative analysis. Qualitative analysis means describing quality data in the form of sentences that are organized, sequential, logical, non-overlapping, and effective, to facilitate data interpretation and understanding of the results of the analysis.<sup>10</sup>

## RESULT & DISCUSSION

### I. Reading Pancasila in the Framework of People's Sovereignty, the Rule of Law, and the Protection of Human Rights After the Amendment of the 1945 Constitution

Pancasila as the foundation of the Indonesian state has a fundamental role in shaping a legal system that guarantees the protection of human rights for all people. Within the framework of popular sovereignty, which is a key principle in the post-amendment 1945 Constitution, the people have an active role in determining the direction of the state, including in terms of respect and protection of human rights. The amendments to the 1945 Constitution between 1999 and 2002 strengthened the position of popular sovereignty by changing and adding various provisions that emphasize the importance of democracy, political rights, and the participation of the people in government. In this context, Pancasila remains the main pillar that directs the state to remain focused on respecting human rights, ensuring that the principles of democracy and social justice are realized in the life of the nation.<sup>11</sup>

The Constitution describes an active and evolving rule of law. In this system, the state has an important role in creating welfare for the people by the principle of social welfare. As a state based on law, all actions, carried out by the government or society, must follow the applicable rules, where the supreme law is the constitution, namely the 1945 Constitution. In addition, the laws applied must reflect the aspirations of the people and ensure the involvement of citizens in the political decision-making process. The purpose of the law is not to protect certain groups in power, but to safeguard the interests of all the people.<sup>12</sup>

One of the characteristics of a state based on law is to respect and uphold the rule of law. The principle of legal sovereignty, which places law as the source of power, places law as the highest standard in running this kind of government. *Rechtstaat* in the Netherlands, Rule of Law in the UK, *Etat de Droit* in France, and *Stato di Diritto* in Italy are some of the terms used to describe the rule of law. The term "governance under the law" comes from this idea. "Indonesia is a state of law", according to Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.<sup>13</sup>

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<sup>9</sup> Sudikno Mertokusumo, *Penemuan Hukum Sebuah Pengantar* (Yogyakarta: Liberty, 2006).

<sup>10</sup> Abdulkadir Muhamad, *Hukum dan Penelitian Hukum* (Bandung: Citra Aditya Bakti, 2004).

<sup>11</sup> Bobi Aswandi & Kholis Roisah, "Negara hukum dan demokrasi pancasila dalam kaitannya dengan hak asasi manusia (HAM)" (2019) 1:1 *J Pembang Huk Indones* 128-145.

<sup>12</sup> Ana Fauzia, Fathul Hamdani & Deva Gama Rizky Octavia, "The Revitalization of the Indonesian Legal System in the Order of Realizing the Ideal State Law" (2021) 3:1 *Progress Law Rev* 12-25.

<sup>13</sup> Otong Syuhada, "Hak Asasi Manusia Dalam Perspektif Negara Hukum Berdasarkan Pancasila" (2021) 3:2 *J Presumption Law* 144-159.



The rule of law stems from the idea that everyone is protected from oppression and arbitrary actions by those in power. In such a situation, rulers cannot act at will against their subjects, and their powers must be limited. Lawful regulations or laws can establish such restrictions. According to Rukmana Amanwinata, this principle is known as the principle of legality, which requires every state action to always follow the applicable law.<sup>14</sup> The relationship between the rule of law and popular sovereignty is a concept that is closely related to the mechanism of state power. Both are mutually supportive and inseparable. On the one hand, democracy stands on the principle of equality and equal human rights, which is the basis of the power system. However, the rule of law says that law is the basis of state power. Punishment serves as the structure of the state. According to Hans Kelsen, the state is a political organization that has power granted to it. With these powers, the law can function effectively in regulating the life of the state.<sup>15</sup>

To ensure that policies and regulations are fair to all, people must be involved in the decision-making process, according to popular sovereignty. Laws and regulations should be made and applied fairly, not just for the benefit of those in power. This is to the basic values of democracy, namely justice and equality. One of the main purposes of law is to provide fair protection for everyone, not just for the powerful.<sup>16</sup> Democracy and popular sovereignty are closely linked as they work together to create a just government that fulfills the wishes of the people. In a system known as democracy, the people have the right to choose their leaders and participate in the political decision-making process, which means that they have control over the government. The people hold the ultimate authority in the country, and through the democratic process, they can supervise and oversee the government to ensure that the policies made reflect the interests and expectations of the people.<sup>17</sup>

In addition, popular sovereignty is the basis of democratic ideas such as freedom of speech, the right to criticize the government, and free and fair elections. Under these circumstances, democracy allows the people to participate in the political process and determine the course of the country. Democracy cannot function properly without popular sovereignty because power does not always benefit the people. Instead, popular sovereignty enables a democratic system where all people have an equal say in determining the political and social future of their country.<sup>18</sup>

Democracy, the rule of law, and popular sovereignty are closely intertwined in forming a just and equitable system of government. Democracy ensures that the people have the right to determine the direction of government through elections and political participation so that popular sovereignty is reflected in the decision-making process. In this case, the rule of law serves to enforce fair rules and protect individual rights, so that democracy and popular sovereignty are not abused by

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<sup>14</sup> *Ibid.*

<sup>15</sup> Honing Sanny, John Pieris & Daniel Yusmic P Foekh, "Hak Asasi Manusia, Demokrasi dan Pancasila" (2021) to-ra 142-156.

<sup>16</sup> Suarlin & Fatmawati, *Demokrasi dan Hak Asasi Manusia* (Banyumas: Penapersada, 2022).

<sup>17</sup> Wari Martha Kambu, Donald A Rumokoy & Nixon S Lowing, "Tinjauan Yuridis tentang Hak Asasi Manusia Berdasarkan Pasal 28D ayat (3) Undang-Undang Dasar 1945" (2021) IX:1 Lex Soc 137-145.

<sup>18</sup> *Ibid.*



those in power. The rule of law also accommodates legal certainty for every decision taken, ensures the protection of human rights, and regulates the oversight mechanism for government actions. Thus, democracy based on people's sovereignty can only be implemented properly within the framework of the rule of law, which ensures that government power does not exceed the limits set by law.<sup>19</sup>

To build a state of law that is also democratic, according to Hans Kelsen, four conditions must be met. First, the government must follow the Constitution and applicable laws. Second, there must be a clear structure that shows who is responsible for government policies and actions. Third, the state must provide an administrative justice system and ensure the independence of the judiciary. Fourth, the state must ensure the protection of human rights. Therefore, it can be concluded that human rights are an important part of the principle of the rule of law that serves to protect and fulfill these rights. As a result, talking about the rule of law is always related to human rights.<sup>20</sup>

The amendments to the 1945 Constitution brought about major changes in terms of the protection and enforcement of human rights, by providing broader guarantees compared to previous editions. Chapter XA, which consists of ten articles, ranging from Article 28A to Article 28J, of the previous 1945 Constitution only included general articles regulating human rights. At the beginning of the reforms, Indonesia faced horizontal conflicts such as in Ambon, Poso, and Kalimantan, which led to human rights violations by certain groups. However, this amendment emphasizes that the state, especially the government, has the primary responsibility to protect, promote, uphold, and fulfill human rights.<sup>21</sup>

Chapter XA of the 1945 Constitution, consisting of 10 articles and 24 paragraphs, specifically regulates human rights in the second amendment of the 1945 Constitution. The enshrinement of human rights in the Constitution shows the importance of human rights as a pillar of Indonesia's rule of law. The provisions in Chapter XA are comprehensive and cover a wide range of globally recognized rights. However, the provision at the end of Article 28J shows that the rights listed in CHAPTER XA can still be restricted. The principles of the UDHR are in line with these human rights provisions of the 1945 Constitution. Article 29 paragraph 2 of the 1945 Constitution also contains provisions that limit human rights.<sup>22</sup>

In his work, *Politica*, Aristotle connects the concept of the rule of law with the protection of human rights. He argues that "a good state is a state that implements the principles contained in the constitution and valid laws".<sup>23</sup> Aristotle mentioned three main aspects of government based on law: first, a government that prioritizes the common welfare; second, a government that is managed with laws that apply fairly, not laws that are arbitrary or contrary to norms and the constitution; third, a

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<sup>19</sup> Ahmad Zaini, "Negara Hukum, Demokrasi, dan HAM" (2020) 11:1 Al Qisthas J Huk Dan Polit 13–48.

<sup>20</sup> Sanny, Pieris & Foekh, *supra* note 15.

<sup>21</sup> Abd Muni, "Hak Asasi Manusia dalam Konstitusi Indonesia" (2020) 23:1 Al'Adalah 65–78.

<sup>22</sup> *Ibid.*

<sup>23</sup> Raymond Polin, *Plato and Aristotle on Constitutionalism: An Exposition and Reference Source* (Farnham: Ashgate Publishing, 1988).



government that takes place based on the will of the people, not the result of coercion or pressure.<sup>24</sup>

The law functions as a check on those in power, with the main goal of maintaining the security of citizens. Therefore, the concept of a state of law is closely related to the struggle to protect human rights. The protection of the basic rights of every person is the basis of a state of law. This view underlies the third amendment to the 1945 Constitution. This amendment affirms Indonesia as a state of law and establishes more detailed protection of human rights in Chapter XA (Articles 28A–28J) of the second amendment.<sup>25</sup>

The principle of the rule of law is a concept that is often associated with the rule of law, according to H. Muhammad Tahir Azhary, who comes from countries with Anglo-Saxon traditions.<sup>26</sup> In *rechtsstaat*, the state administrative justice system is applied, while in the rule of law, the administrative justice system is not applied because of the strong belief in general justice. The rule of law emphasizes that every individual must be treated equally before the law, so that general justice is considered capable of handling all cases, including those involving the government, as long as the judges have integrity and high quality. In contrast, Philipus M. Hadjon provides a different view on the use of the term legal state, equating *rechtsstaat* and rule of law.<sup>27</sup> He argues that these terms, especially when connected with respect for human dignity and the affirmation of Indonesia as a country based on law, often become mere jargon, especially during the Old Order and New Order.<sup>28</sup>

Human rights and the constitution in a state of law are closely interrelated, although they have different functions. The law plays an important role as a tool that ensures the protection and enforcement of the basic rights of individuals in the country. To ensure that these rights are well protected, the law must be able to act as a strong and effective mechanism for the state and government institutions. This includes clear limitations on power and the existence of a system of oversight between state institutions to prevent abuse of power. Uncontrolled power can violate human rights and cause social inequality. Therefore, fair laws and a strong system of oversight are essential to ensure that everyone's rights are protected and that state power is used in the public interest without violating human freedom and dignity.<sup>29</sup>

Human rights regulations in Indonesia have begun to be seen since Pancasila became the foundation of the state, although at first it was still implied. Pancasila, with its basic values, describes the relationship between humans and God Almighty. The provisions of Law Number 39 of 1999 concerning Human Rights are based on the principles of the UN Universal Declaration of Human Rights (UDHR) and international conventions such as the convention on the elimination of discrimination against women and children's rights. The contents of this law were

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<sup>24</sup> Fadli Andi Natsif, "Perlindungan Hak Asasi Manusia Dalam Perspektif Negara Hukum Indonesia" (2019) 19:1 J Al-Risalah 148–158.

<sup>25</sup> *Ibid.*

<sup>26</sup> M Tahir Azhary, *Negara Hukum* (Jakarta: Bulan Bintang, 1995).

<sup>27</sup> Philipus M Hadjon, "Tentang Kewenangan" (1997) 7:5–6 Yuridika.

<sup>28</sup> Natsif, *supra* note 24.

<sup>29</sup> Rafina & Akhhmad Zaki Yamani, "Peran Konstitusi dalam Demokrasi dan Hak Asasi Manusia di Indonesia" (2024) 2:11 Causa J Huk dan Kewarganegaraan 1–12.



made by considering the principles contained in Pancasila and the 1945 Constitution as well as the legal needs of the Indonesian people.<sup>30</sup>

Chapter XA of the amended 1945 Constitution includes Articles 28A to 28J, which are the product of the second amendment in 2000. The Indonesian government fulfills its responsibilities through laws and MPR decrees, such as Law No. 39 of 1999, which was enacted on 23 September 1999 and regulates various important aspects related to the Human Rights Court.<sup>31</sup> Although the principle of the rule of law and the recognition and protection of human rights are important components of the state structure, human rights should not be viewed only from an individual perspective. Harmony between government and society based on social harmony is more important for Indonesia. This concept is one of the main pillars of the Pancasila Rule of Law, where state power is divided equally, deliberation is used to resolve disputes, and the judiciary is used as a last resort. In terms of human rights, the focus is not only on rights and obligations; rather, it seeks to achieve a balance between the two.<sup>32</sup>

In this concept, the relationship between the government and the people is regulated by the principle of cooperation, which is a custom of the Indonesian customary law community.<sup>33</sup> In this concept of cooperation, there are also family values that prioritize common interests and create balance in life. Furthermore, this family spirit becomes the basis for creating the principle of family, which is the principle that underlies the relationship between the government and the people. This principle, together with the principle of harmony, explains how important a harmonious relationship is between the government and the people so that the rights and obligations of each person are balanced in every aspect of life.<sup>34</sup>

In addition to the legal regulations governing human rights, Indonesia also seeks to uphold and protect human rights through the establishment of various institutions that have special functions. These institutions work as drivers in the implementation of human rights protection and enforcement, to create a society that respects human rights, so that every member of society can contribute fully to social life. In Indonesia, the National Human Rights Commission, the Human Rights Court, the National Commission on Violence against Women, the National Commission for Child Protection (*KNPA*), the Indonesian Child Protection Commission (*KPAI*), the Truth and Reconciliation Commission, and many civil society organizations that support democracy and human rights.<sup>35</sup>

With more regular regulations and institutions that support the protection of human rights, it is hoped that the public will increasingly realize how important it is to maintain human rights as basic rights that every person has. This is especially true in a state system based on law, which is responsible for maintaining and

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<sup>30</sup> Jumardin, Fadlan & Muhammad Yusuf Muhlis, "Hak Asasi Manusia dalam Bingkai Hukum" (2024) 1:2 *Vifada Assumpt J Law* 9–16.

<sup>31</sup> *Ibid.*

<sup>32</sup> Fikri Hadi, "Negara Hukum dan Hak Asasi Manusia di Indonesia" (2022) 1:2 *Wijaya Putra Law Rev* 170–188.

<sup>33</sup> Muhammad Yustino Aribawa et al, "Unraveling the Ratio Legis of the HKPD Law on Local Taxes and its Implications for the Community" (2025) 1:1 *Soetomo Justice* 32–41.

<sup>34</sup> Hadi, *supra* note 32.

<sup>35</sup> Dany Try Hutama Hutabarat et al, "Pentingnya Hak Asasi Manusia (HAM) dalam Bernegara" (2022) 1:2 *J Ris Pendidik dan Pengajaran* 80–91.



respecting every basic right given to its citizens as a gift from God Almighty. With the existing protection mechanisms, the public can maintain these rights.<sup>36</sup>

It is important to remember that the founders of the Indonesian nation designed Pancasila as a foundation of profound values, which also serves as a connecting foundation for the integrity of the Indonesian legal system. As the main source of law, Pancasila is the basis of all legal systems in Indonesia. However, Pancasila, which contains these values, cannot be directly applied as formal law, because it is still at the level of basic principles. Therefore, these principles must be interpreted and transformed into more specific legal standards, as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia and other laws and regulations. Every existing regulation contains ideal standards that serve as guidelines for achieving noble goals in the lives of society and the state. The purpose of laws and regulations should reflect the principles of society.<sup>37</sup>

In Indonesia, the understanding of human rights is not only limited to the basic rights of individuals; it also emphasizes that every citizen is responsible for respecting applicable laws, both written and unwritten. They are also expected to respect the human rights of others and comply with moral, ethical, and international legal norms recognized by Indonesia on human rights. Conversely, by applicable national and international laws, the government is responsible for respecting, protecting, upholding, and advancing human rights.<sup>38</sup>

## **II. Human Rights as a Guideline for Social Life in Society Based on Pancasila**

A country of law needs to protect human rights, which are recognized in the 1945 Constitution. The Human Rights Law regulates policies related to human rights and dignity and how these policies affect future development. Many Indonesian citizens do not fully understand their rights and human rights violations still occur frequently. However, overall, the development and implementation of human rights have shown good progress, driven by clearer regulations and laws. The Human Rights Law was created to address various violations that have occurred, which are important issues both in Indonesia and globally. Although each country has a different way of dealing with human rights issues, the nature and basic principles of human rights remain universal. Human rights are rights inherent to all human beings, which are given based on their dignity as human beings.<sup>39</sup>

The concept of human rights explains how the state safeguards the basic rights of its citizens. The state has a great responsibility to promote human rights both at the national and international levels, which makes the state a powerful entity with an obligation to support the advancement of these rights. By the basic principles of human rights, the state functions as a guardian of rights, where everyone under the authority of the state has the right to enjoy these rights. The state has three main obligations to promote human rights, including respecting the rights.<sup>40</sup>

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<sup>36</sup> *Ibid.*

<sup>37</sup> Sanny, Pieris & Foekh, *supra* note 15.

<sup>38</sup> *Ibid.*

<sup>39</sup> Shinta Azzahra Sudrajat, "Hak Asasi Manusia (HAM) sebagai Bentuk Kebijakan Politik dalam Pelaksanaan Perlindungan" (2022) 1:1 Defin J Agama Dan Sos Hum 17–28.

<sup>40</sup> *Ibid.*



Asia does not have a human rights charter like those in Europe, Africa, or the Americas, but it has made progress in human rights. The strong traditions and influence of religion in most Asian countries are the main reasons for the absence of such a charter. These religions and traditions also influence the way people think and act in many Asian countries. In 1928, the World University-Tokyo, UNESCO University-Paris, and the Centre for Human Rights Education and Research organized a seminar in New Delhi on the approach to human rights in Asia. The seminar reached several conclusions, such as the importance of the state and social institutions in monitoring human rights violations and how poverty correlates with human rights violations, both regionally and internationally.<sup>41</sup>

In addition, the relationship between the independence movement and the right to self-determination in the struggle for human rights was discussed in this seminar. One important conclusion is the need to integrate religious, cultural, and traditional values into the concept of human rights, to respect the rights of each cultural or religious group. Furthermore, this seminar highlighted the importance of the role of technology and science in ensuring the protection of human rights, as well as the importance of understanding the process of militarization and autocracy in Asia. Several recommendations were also made to UNESCO and the UN, to strengthen the relationship between human rights law and humanitarian law in efforts to promote and protect human rights in Asia.<sup>42</sup>

The enforcement and protection of human rights are very important in Indonesia because it is related to the dignity and worth of every person as a human being. Human rights in this country are closely related to Pancasila, the foundation of the Indonesian state, especially the second principle. Indonesia respects human rights because it reflects respect for the values of humanity and the dignity of its people as a country of law. Therefore, human rights are always considered and protected.<sup>43</sup> Human rights are equal rights for all people throughout the world regardless of their ethnicity, religion, race, or class. This is the basis of international law that guarantees these rights. The principle of the universality of human rights applies throughout the world, although the enforcement of human rights can vary from country to country. In the context of Indonesia, the ideology of Pancasila plays an important role in the enforcement of human rights because it includes the values of humanity, unity, and social justice as the ethical basis for protecting human rights. Indonesia is committed to protecting these rights, including freedom of religion, freedom of speech, the right to justice, and other social and economic rights. The country is also committed to complying with international human rights treaties that mandate these rights.<sup>44</sup>

Pancasila, as the foundation of the Indonesian state, serves as a constitutional and philosophical foundation that guides the government and the country's legal system. In this regard, Pancasila, which contains values such as humanity, unity,

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<sup>41</sup> Ridwan Arifin & Lilis Eka Lestari, "Penegakan dan Perlindungan Hak Asasi manusia di Indonesia dalam konteks implementasi sila kemanusiaan yang adil dan beradab" (2019) 5:2 J Komun Huk 12-25.

<sup>42</sup> *Ibid.*

<sup>43</sup> Ana Fauzia & Fathul Hamdani, "Sanksi Penundaan atau Penghentian Jaminan Sosial Pada Masa Pandemi COVID-19" (2021) 1:2 J Kaji Pembaruan Huk 133-174.

<sup>44</sup> Husna & Najicha, *supra* note 1.



democracy, and justice, supports the protection of everyone's human rights. Pancasila respects the diversity of religions and beliefs, in line with the principle of freedom of religion in human rights. Pancasila serves as a guide to achieving human rights protection that is consistent with the principles and ideals of the state, maintaining a balance between public interest and individual rights in Indonesia, although there are still obstacles in the implementation of human rights.<sup>45</sup>

Respect for human rights is essential to maintaining unity and harmony in Indonesia, as the country is rich in ethnic, cultural, and religious diversity. The interpretation of human rights must be by the principles contained in Pancasila, especially the Second Principle, which emphasizes justice and civilization. This principle emphasizes the importance of mutual respect and tolerance, which are characteristics of Indonesian society. Human rights, which are a manifestation of the values contained in Pancasila, prioritize the principle of equality for all citizens, providing equal rights and obligations to obtain legal protection and justice.<sup>46</sup>

Human rights play a crucial role as the main guideline in social life by ensuring that every individual has inalienable basic rights, regardless of ethnic background, religion, or social status, while also being the foundation for creating a just and equal environment where the dignity and freedom of every person are guaranteed, and the consistent application of human rights principles helps prevent discrimination and injustice in interactions between citizens.<sup>47</sup>

In addition, human rights also help to increase social solidarity and encourage community participation in development. By respecting the rights of every person, society is better prepared to work together, appreciate differences, and collaborate to achieve common goals. A harmonious and healthy community life can only occur when every member of society has the opportunity to enjoy their basic rights without fear of oppression or abuse of power.<sup>48</sup> On a broader level, the application of human rights principles also contributes to sustainable social and political development. A country that respects human rights can create just laws, facilitate equal access to education, health, and employment, and protect civil liberties. Thus, human rights are not only a moral basis, but also a practical instrument for realizing a prosperous and just society, in which every human being can play an active role in social, political, and economic processes without being hampered by oppression or violation of rights.<sup>49</sup>

## CONCLUSION

Pancasila as the foundation of the Indonesian state has a very important role in ensuring the protection of human rights (HAM). As a state ideology, Pancasila contains fundamental values that emphasize the importance of justice, humanity, unity, and freedom, all of which are the main principles in the formation and implementation of the legal system in Indonesia. In this context, Pancasila functions as a guideline in formulating legal policies that not only regulate social and political

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<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> Elsa Aulia Fadhilah, Dinie Anggraeni Dewi & Yayang Fuji Furnamasari, "Hak asasi manusia dalam ideologi Pancasila" (2021) 5:3 J Pendidik Tambusai 7811-7818.

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*



life but also direct the state to respect and protect individual rights. The concept of the Pancasila rule of law emphasizes that the state must always side with social justice, protect every citizen, and ensure that human rights are respected in every aspect of social, national, and state life.

Through the amendments to the 1945 Constitution in the period 1999-2002, the Indonesian state further emphasized its commitment to human rights and people's sovereignty. This amendment provides greater space for the people to be involved in political decision-making and strengthens the protection of basic rights through the Constitution. Pancasila as the foundation of the state remains the main foundation in efforts to create a democratic government that respects individual freedom. Therefore, Pancasila not only functions as an abstract ideology, but also as a concrete foundation in the formation and enforcement of laws that support the protection of human rights. Thus, Pancasila directs Indonesia to become a state based on justice, human dignity, and recognition of the rights of every individual and ensures that these rights are protected by the state through a fair and transparent legal system.

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The authors state that there is no conflict of interest in the publication of this article.

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