

# The Pancasila Law State: Muhammadiyah's Contribution to Building the Indonesian Legal Paradigm

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**ABSTRACT.** Pancasila as *Darul Ahdi Wa Syahadah* in the perspective of Muhammadiyah opens a new interpretation space for the conception of the state law of Pancasila. This is quite logical because the 1945 Constitution only mentions Indonesia as a state of law without explaining its paradigmatic framework in a normative-systematic manner. The idea of Pancasila law (*rechtsidee*), which is full of ethical values, morals, customary law, and local wisdom, is still being degraded by the strong penetration and influence of the values of Western legal traditions, civil law, and common law. In contrast, the Western legal tradition is oriented towards the liberal-capitalist ideology, which contrasts with the Pancasila ideology. This research examined the problem of the current constitutional paradigm of national law development and investigated the strategy for strengthening Pancasila as the main paradigm for the development of national law and the concept of the ideal state of Pancasila law from the perspective of *Darul Ahdi Wa Syahadah*. This normative-empirical research had three main components: The first was a literature study to identify and map polemics over a number of related legal products. The second part was a field study by observation and direct interviews (purposive sampling/non-random sampling) with a number of associated informants. Lastly, the third part was the analysis of results, conclusions, and recommendations. As a result, this research produced policy formulations related to strengthening Pancasila as a paradigm of national law development and the ideal concept of a state of law Pancasila from the future perspective of *Darul Ahdi Wa Syahadah*.

**Keywords:** Darul Ahdi Wa Shahadah, Muhammadiyah, Pancasila, The State of Law

## INTRODUCTION

The politics of national law development after the amendment of the 1945 Constitution has not made Pancasila its main paradigm. There is no paradigmatic framework regarding the "Indonesian rule of law" as mandated by Article 1, paragraph (3) of the 1945 Constitution. As a result, there is a disorientation of values and multiple interpretations of the identity of the national legal system. So far, the development of national law tends to move in an artificial, sectoral space without having a clear paradigm. In comparison, the national legal system requires a strong identity and character. It should not be just jargon and should become an instrument of development and a tool for the legitimacy of power alone. Legal development still tends to move in an artificial, sectoral space without a clear basic framework (paradigm). As a result, the concept of the rule of law in Indonesia seems to have escaped the orientation of national legal development. The strategic role of the Outlines of State Policy (GBHN) as the main paradigm of national development has now been replaced by the National Development Program (Propenas) and the National Long-Term Development Plan (RPJP). Post-reform law development is still carried out in reactive, partial, and patchwork ways. The basic framework for the orientation of the development of national law serves as a guide (guidance) so that the development of Indonesian law can truly become orientative and effective means for the engineering and empowering the Indonesian people towards the basic ideals of being a nation-state, such as the welfare of the people, physically and mentally (*bonnum publicum*).

The practice of a capitalist legal state is almost perfect compared to a legal state with Pancasila's ideology. The polemic of the Omnibus Law (UU No.11/2020) and the Mineral and Coal Law (UU No.3/2021) are examples of legal products with a liberal character whose formation process does not reflect the noble values of Pancasila as the source of all legal sources. There are still many other legislative products whose birth is more oriented towards the interests of political and economic oligarchs as a characteristic of a liberal law state. This happens because the paradigmatic framework of the identity of the national legal system has not been comprehensively formulated in the 1945 Constitution or a legal product of *lex specialis*.

Muhammadiyah's paradigmatic concept of the Pancasila state as "Darul Ahdi Wa Syahadah" is very contextual and relevant in an effort to build the identity of the Indonesian legal system in accordance with national identity. For Muhammadiyah, the existence of the Indonesian state is a result of the gentlemen's agreement from the founding fathers. Many Muhammadiyah figures are directly involved in drafting the basic concepts of the state and the Constitution, both at the BPUPKI and PPKI institutions. Muhammadiyah has a moral commitment to maintaining the Unitary State of the Republic of Indonesia and is subject to the national agreement on Pancasila as the ideology of the state and the nation's personality. The Muhammadiyah organization is committed to making the rule of law and the Constitution the basis of power in the Indonesian government system.

These various problems do not just happen (taken for

granted). Of course, there is a causative relationship that causes them. One of them is a partial and reactive way of thinking and solving legal problems plaguing this country. As a result, the concept of national law development does not start from laying a clear paradigmatic basis. The answer to this question is the starting point for various agendas to develop further a state of law that is more just and in accordance with the ideals of Indonesian independence.

In this context, the offer of Muhammadiyah's paradigmatic concept of the Pancasila state as "*Darul Ahdi Wa Syahadah*" after the 2015 *Makassar Mukhtamar* needs to be elaborated in an effort to build the identity of the Indonesian legal system in accordance with the nation's personality. For this reason, this study will examine three problems: What is the strategy for strengthening Pancasila as a paradigm of national law development?; and the ideal concept of a state of law Pancasila from the perspective of *Darul Ahdi Wa Syahadah* Muhammadiyah in the future.

## METHOD

This normative-empirical research examined the legal aspects and proved the effectiveness of the application of legal norms in society using a statute approach, analytical approach, and comparison. It also includes library research to identify and analyze secondary data (primary, secondary, and tertiary legal materials). Then, primary data collection through observation and interviews with sources with purposive sampling, then descriptive-qualitative data analysis to draw conclusions.

## RESULT AND DISCUSSION

### (1) There was a Distortion of the Paradigm of the Pancasila Law after the Amendment of the 1945 Constitution

Epistemologically, the word "paradigm" refers to a conceptual framework based on which a number of scientific facts or phenomena can be verified, interpreted, and understood in the logical sequence of science. Thomas Kuhn is an important figure who pioneered the concept of "paradigm," as in "The Structure of Scientific Revolutions." The essence of the "paradigm" notion is a basic and general theoretical assumption and is a source of value. Consequently, it is a source of laws, methods, and applications in science, so it greatly determines the nature, characteristics, and character of science itself.

This scientific terminology then experienced the development of the value order in various aspects of human life and science, such as in the fields of politics, law, economics, or culture. In the end, the term "paradigm" developed into terminology that contains the connotation of understanding the source of values, frameworks, basic orientations, and sources of principles, directions, and goals of development, change, and process in a particular field. Formulating a value orientation and the basic framework of the concept of a state of law Pancasila is part of the effort to form the

intended paradigm. Pancasila contains basic values that reflect the nation's view of life, soul, and personality. To interpret and place the principle or value orientation of "Belief in One Supreme God" in the first precepts of Pancasila, as the source, direction, and purpose of the activity of practicing science, is nothing but the application of scientific activities which are commonly categorized as the Pancasila paradigm. The values in the First Precepts of Pancasila include and animate all other integrated Pancasila Precepts. The position of Pancasila as a scientific paradigm can be explained as follows:

- **Belief in the Almighty God**  
This first precept implies the concept of the existence of God Almighty, who continues to establish a relationship and unity with humans and the universe and its contents. The science of the Pancasila paradigm is theistic and contrary to the Cartesian-Newtonian paradigm that God has "retired" since the universe and humans as its inhabitants have been created.
- **Just and civilized humanity**  
This second precept clearly implies the concept of a complete human being. In its wholeness, there is spiritual, and there is physical. As a spiritual unity, the existence of conscience (qalbu) is no less important than reason. Science with the Pancasila paradigm recognizes and respects the existence of reason (ratio) but not everything (ratio above else) as the credo "cogito ergo sum."
- **The Unity of Indonesia**  
The necessity of placing the First and Second Precepts as the soul of Indonesian unity shows the integration between the character of science and the ideology of Indonesian nationalism, as well as the rejection of the ideology of ethnicism and ethnocentrism.
- **Democracy is guided by the inner wisdom in the unanimity that arises out of deliberations among representatives.**  
This precept implies the concept that the people or people's representatives, in exercising their power, must be led by wisdom, with a full sense of responsibility, both vertically to God and horizontally to all Indonesian people, and never on the basis of power or formal legality. The closer man is to the source of absolute truth, God, the wiser he will be.
- **Social justice for the whole of the people of Indonesia**  
Justice is not formal, a justice that is born because of legislation, but justice that is based on its social nature, namely the Indonesian people, which have a communalistic-religious character. The science of the Pancasila paradigm encourages the pursuit of social justice and rejects the domination of positivism.

After the amendment of the Constitution (UUD 1945), the assertion of Indonesia as a "state of law" is a legal



postulate that is difficult to refute. The statement of Indonesia as a state of law (*rechstaat*) is the antithesis of the practice of power absolutism (*machstaat*) and abuse of power. Therefore, the development of national law is a determining factor for the implementation of development in all fields. Muhammadiyah is committed to making the rule of law and the Constitution the basis of power in running the Indonesian government system. So far, the concept of the rule of law in Indonesia seems to have escaped the orientation of national legal development. The strategic role of GBHN as the main paradigm of national development has now been replaced by the National Development Program (*Proenas*) and the National Long-Term Development Plan (*RPJP*). At the same time, the GBHN is able to lay a solid constitutional foundation and soul with the values of Pancasila. Post-reform law development is still carried out in reactive, partial, and patchwork ways. The basic framework for the orientation of the development of national law as a guide has not yet been seen.

The direction of Indonesian legal development has not been oriented. It has become an effective instrument for engineering and empowering the Indonesian people towards the basic ideals of being a nation-state, which is the welfare of the people, physically and mentally (*bonnum publicum*). The problem with the paradigm of the development of national law after the amendment to the 1945 Constitution shows a change in characteristics that led to liberal democracy. The amendment process, which transplanted the legal system from the United States, left the thoughts of the original formulators of the text of the 1945 Constitution. Changes in the authority of the People's Consultative Assembly of the Republic of Indonesia in setting the Outline of State Policy (*GBHN*) made the paradigm of national law development dependent on the paradigm of presidential and vice-presidential campaign promises elected in elections directly because the *GBHN* is no longer valid.

Distortion of the national legal paradigm occurs because the process of state law does not go through a process of socio-cultural struggle that is rooted in the culture of the nation. The birth of Indonesia became a state of law because it was "forced" through a legal transplant process by the Dutch and not through a process of social system struggle as happened in Europe. This coercion was carried out without going through a process of deliberation or waiting for the collapse of the Indonesian social system. The birth of the Indonesian legal state was instant and fast, through a social system leap from traditional and direct feudalism to a state of law. The legal substance during the colonial period became very complex, where legal dualism (Western law and customary law) prevailed in the same area and at the same time. Customary law is regional, communalistic, and religious, so Indonesia had legal pluralism then.

Although Pancasila has become a political consensus regarding the state ideology, it has not yet become a political consensus for the future development of the

national legal system. Legal development based on Pancasila in a paradigmatic and operational framework has not yet been formulated in a systematic-normative manner in the design of political policies for legal development. This is read in the national development planning system (Law No.25 of 2004) junto Law No. 17 of 2017 concerning *RPJN* for 2005-2025, the main direction of national development, a substitute for the *GBHN*. The direction of national law development in Law No. 17 of 2007 only emphasized that, in general, efforts to realize the national legal system include the development of legal substance, improvement of a more effective legal structure, and increased involvement of all components of society who have high legal awareness to support the development of the aspired national legal system.

In the Pancasila thesis as "*Dahrul Ahdy Wa Syahadah*" the disparity in law enforcement and the weakness of such a paradigm of national law development became the focus of Muhammadiyah in the 48th *Bengkulu* 2019 *Tanwir* and the 47th Congress previously in *Makassar* in August 2015 ago. In one of the 47th *Tanwir* recommendation points, Muhammadiyah identified itself as part of the strategic component of the Indonesian nation. Therefore, the people of Muhammadiyah have a great opportunity to practice the ethos of "*fastabiqul khairat*" and appear to be "a leading force" or a force that is at the forefront to fill and lead the Pancasila state towards an advanced, just, prosperous, dignified and sovereign national life. Muhammadiyah's national mission is in line with the values of Pancasila. Many Muhammadiyah figures contributed to the birth of Pancasila as the basis of the state and the philosophy of the nation. Therefore, Muhammadiyah dares to assert that the Pancasila state is the final consensus that fits the character and personality of the nation.

Several determinant factors give rise to legal polemics and biased interpretations of the conception of the Indonesian rule of law. First, Indonesia has been born since the proclamation of independence on August 17. Since its birth, it has been announced as the Republic of Indonesia. In addition, explicitly published, Indonesia is a state of law (*rechstaat*). However, being a state of the law is not enough at the formal level. Still, it must be followed by efforts to fill the state of the law with various legal instruments and behaviors so that it truly becomes a substantial state of law. At this level, there are still sharp differences regarding the thinking of the rule of law; some want to be oriented to the West, and others want to be grounded in indigenous Indonesian cultural values. Second, empirically, we do not have much experience in the rule of law. Indeed, since the Dutch and Japanese colonized us, we have been living in a state of law. Despite that, our position at that time was not as the subject of management but as the object of the sufferer. The absence of experience in a state of the law has proven to have a major impact on the readiness of this nation when, suddenly, it must be independent in managing the rule of law. Thus, it is important to pay

attention to so many difficulties and obstacles that have not been able to be resolved properly, leaving pain, injustice, and discomfort in life.

## **(2) Strategy for Strengthening Pancasila as a Paradigm for National Law Development**

Tanfidz, the decision of the 47th Muhammadiyah Congress in 2015, was born out of Muhammadiyah's view of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution, as well as Muhammadiyah's commitment to integrating Islam and Indonesianness. The concept of the Pancasila state as "Darul Ahdi Wa Syahadah" provides a new interpretation of the Unitary State of the Republic of Indonesia, which was founded on the agreement of all components of the nation and emphasizes the importance of proving the agreement in the life of building the nation and state. There is a national need to provide interpretation and fill the Pancasila state in all aspects of life. Pancasila is a moderate or the middle-way paradigm for the Indonesian people. The development of national law should be based on the basic principle that this country was born on the basis of the people's political consensus, which must be built, saved, and should not be damaged. The development of the Indonesian legal state in the future must present the values of Pancasila by increasing the example (uswah) in the life of the nation and state because uswah means moral integrity in carrying out relations and power.

National legal politics is a determining factor in achieving the ideals and goals of the state as mandated by the Constitution (Preamble to the 1945 Constitution). Therefore, the direction of national legal development will be greatly influenced by the footing and orientation of the legal political policy taken. Pancasila went through the dynamics of debate in the long sessions of BPUKI and PPKI until it was finally agreed to become the state ideology on August 18, 1945. Constitutionally, the executive (President-Government) and the DPR are involved in the design of legal political policies through legislative politics (law). However, it is also not easy to reach common ground in the formulation of legal and political policies since many political and non-legal factors accompany it. Political configurations in the legislative process usually end in political compromise. Every political compromise does not fully satisfy the parties and is in line with the interests of the nation and state. Not least, the laws that have been declared valid are often unable to solve the problems and legal needs of the community.

This happened because of the thick privatization of the law and the interests of the groups behind the preparation of a law. Commitment to the essence of the Pancasila state agreement or "Dahrul Ahdy Wa Syahadah" becomes very important to be understood by the legislators. In the formation of the law, Pancasila is a philosophical basis that must be considered in addition to the sociological and juridical aspects. These three aspects are a unified prerequisite that must be met. This is in line with the rules

regulated in Law No. 12 of 2011 concerning the formation of laws and regulations. If the formation of the law from the beginning is only oriented to the interests of investment or capitalist economic development, there will be a negation of the values of Pancasila as the fundamental rule and paradigm of legal development.

Thus, a strategy for strengthening Pancasila is needed as the main paradigm in the development of national law: First, always make Pancasila values the main ideology in every formulation of national legal and political policies. There should be no intervention and influence of foreign ideological values in any product of legal development policy, including the legislative process at the regional level in the context of regional autonomy. Opening space for penetration of other countries' ideologies by ignoring the principle of recognizing the supremacy of God (Belief in the Almighty God precept) is a form of denial of the noble values of Pancasila. The development of national law must place the ethical and moral values of the nation, as well as the principles of just and civilized humanity, as a commitment to the essence of Pancasila as "Dahrul Ahdy Wa Syahadah." In Kaelan's view, philosophically, Pancasila as a paradigm of state life implies that all aspects of state life, including political life, legal system, economy, socio-cultural, and others, are based on the values contained in Pancasila. Ontologically, humans are the main supporting element of the state, which also has a "monopluralist" fundamental element. Its elements include the composition of the physical-spiritual nature, the nature of individuals and social beings, and the natural position of personal beings, creatures of God Almighty.

Second, put the sovereignty of the nation, the public interest, and the national interest above all else. Consequently, any legal policy formulation should have no oligarchic political supremacy. Pancasila will stagnate as a living and dynamic ideology if the large number of legal products produced adjusts to the demands of market players, investors, and corporations in the pro-capitalist economy. The disorientation of values and the choice of the ideology of national legal development can have a negative impact on the aspects of equity and development justice. As an illustration, although supported by laws or regulations, many implementations of infrastructure projects and the government's national strategy have no impact on the welfare and prosperity of the people.

This is very easy to happen because the values of social justice, humanity, and the public interest no longer animate the content of applicable legal norms. Likewise, the presence of mining investment in the regions does not have an impact on reducing the number of poor people in communities around the mine. People find it difficult to find jobs. On the other hand, the influx of foreign workers in the mining sector is due to unequal legal policy support. The practice of licensing corruption in the mining sector is rife. Mining investment has become a source of damage, humanitarian disaster, and environmental ecology. This is because the commitment to the integration of the nation



and the national interest as the ideological identity of Pancasila is no longer an urgent matter to be prioritized in every legal development policy scheme. If you use Pancasila as the ideological basis for the development of national law, then there should be no denial of the principle of gotong royong and the public interest in making political-legal strategic decisions.

Third, every legislative product or legal product that is made must not be oriented to the philosophy and legal system of foreign countries, especially the capitalist legal system, the continental European legal system (rechstaat, civil law), and the "Anglo Saxon" system (common law; the rule of law). Likewise, the flow of the socialist-communist legal system (legal socialist) relies on the teachings of Karl Max. The paradigmatic framework, ideological basis, and philosophical-sociological foundation of a number of these legal schools are not in harmony with the ideology of Pancasila. It is impossible to achieve the fulfillment of the constitutional rights of citizens if legal products as a result of derivation from the state foundation do not make Pancasila a fundamental norm (staatsfundamentalnorn). Pancasila contains the values of justice, ethics, religious values, natural law, and moral law, which, in principle, are a source of material law for all positive legal products in Indonesia. In this connection, so that the law can function properly as a protector and protector of the community, the law should always be able to adapt to the development and dynamics of the aspirations of the community.

Fourth, make Pancasila the main value standard (the touchstone standard) in every "Judicial Review, Legislative Review, and Executive Review" case. So far, no formal procedural law regulation or "lex specialis" normalizes it. The practice that has occurred so far is still partial, as seen in the construction of the judge's interpretation in several decisions of the Constitutional Court. The noble values of Pancasila must be the standard touchstone related to the constitutionality of law with the 1945 Constitution in the Constitutional Court and in the case of "Judicial Review" in the Supreme Court. If the material of an Article of Law, PP, or Perpres harms the public interest and ignores the spirit of social justice for all the people, it can be revoked or declared no longer valid. In the case of the "Legislative Review" by the DPR or the case of the "Executive Review" by the government, ideally, it should apply the same standard of valuation of the Pancasila constitutionality values. Thus, the noble values of Pancasila are no longer in an abstract area but functionally become operational values that are clearly legible and internalized in every material of the applicable law or positive law.

Exploring the concept essence of Pancasila's constitutional state is always filled with a number of opinions related to the paradigmatic conception behind the concept of the state of Pancasila law itself. Conditioning and placing the Creator or God as the source and the direction and purpose of practicing science is a form of scientific activity

commonly categorized as the Pancasila paradigm. This is because the First precept is Belief in the Almighty God, which encompasses and animates the other precepts under it as a whole. At this point, Pancasila is a source of value for legal reform as a legal ideal that is domiciled as the source of all sources of law. The Pancasila legal system does not separate the symbiotic relationship between religion and the state. The established law must be based on religious moral values, humanity, and moral values and provide a sense of justice. Culturally, the values of Pancasila are rooted in cultural values and religious-spiritual values of the nation. The existence of these Indonesian "local wisdom" values has taken root, has become entrenched, and has become a traditional legal system that is institutionalized and integrated into the socio-cultural ties of people's lives. Through the nation's founding fathers, these values have been comprehensively studied and integrated into the basis of the state and the nation's philosophy, known as Pancasila.

### (3) Darul Ahdi Wa Syahadah Perspective: The Ideal Concept of the State of Pancasila Law

The Pancasila state as "Darul Ahdi Wa Syahadah" manifests Muhammadiyah's national jihad commitment to Pancasila as the state ideology that aligns with Islamic and Muhammadiyah values. The Unitary State of the Republic of Indonesia proclaimed on August 17, 1945 is a Pancasila state that upholds a noble national philosophy and is in line with Islamic teachings. The precepts of the Belief in the Almighty God, just and civilized humanity, the unity of Indonesia, democracy led by wisdom in deliberation/representation, and social justice for all Indonesian people are essentially in harmony with the values of Islamic teachings. They can be actualized towards the life they aspire to. The ideals of Muslims are "Baladatun Thayyibatun Wa Rabbun Ghafur."

Muhammadiyah has a big role in formulating Pancasila as the identity of the Indonesian nation. The idea of the Pancasila state as "Darul Ahdi Wa Syahadah" is the official product of the 47th Muhammadiyah Congress, which took place in Makassar in August 2015. This idea is based on official thinking that has been the organization's guidelines and references, as follows:

- The Faith and Ideals of Muhammadiyah Life;
- Personality of Muhammadiyah;
- Khittah Muhammadiyah;
- Building the Vision and Character of the Nation;
- Progressive Indonesia and;
- Results of Tanwir Muhammadiyah in Bandung in 2012; and
- Results of Tanwir Samarinda in 2014

The Pancasila state is the result of national consensus (dar al-ahdi) and a place of proof or testimony (dar al-syahadah) to become a safe and peaceful country (dar al-salam) towards an advanced, just, prosperous, dignified, and sovereign life under the blessing of Allah SWT. This national view is in line with the Islamic ideals of the ideal state "Baladatun Thayyabtun Wa Rabbun Ghafur." A good country



and is in the forgiveness and mercy of Allah. The ideal state is always blessed by the Creator because it contains essential spiritual-national values, including First, the population is faithful and pious (Surah Al-A'raf: 96); worship and prosper (Surah Adz-Dzariyat: 56; Hud: 61). Second, carrying out the function of the caliphate and not make damage in it (Surah Al-Baqarah: 11.30). Third, having a harmonious relationship with Allah (habluminallah) and with others (habluminannas) (Surah Ali Imran: 112). Fourth, developing relationships between components of the nation and humanity with equality and of taqwa quality (Surah Al-Hujarat:13). Fifth, to become a nation of excellence with dignity, khyaira ummah (Surah Ali Imran: 110). In the context of Islam and Indonesianness, the Indonesian state, which has a Muslim majority population, must continue to be built into an Islamic Pancasila state and progress towards the main civilization for all people.

The "Darul Ahdy Wa Syahadah" concept has a rational basis for thinking and a long history. Several Muhammadiyah figures contributed and took part in the independence of Indonesia, among others: the Great Commander General Soedriman, Ir Juanda, K.H Mas Mansyur, and Teuku Muhammad Hasan. Muhammadiyah's big contribution continues and contributes to the birth of Pancasila as the state ideology. The ideology of Pancasila must be maintained because it is very much in line with the ideology of Muhammadiyah, the eyes of the ideals and beliefs of Muhammad's life. Muhammadiyah figures also became members of BPUKI/PPKI, including being actively involved in the discussion of Pancasila and the 1945 Constitution. Accordingly, BPUKI was formed on April 29, 1945, and inaugurated by Japan on May 28, 1945. The inaugural session of BPUPKI took place from May 29 to June 17, 1945. The four Muhammadiyah figures who are members of BPUPKI/PPKI are Mr. Kasman Singodimedjo, Ir. Soekarno (Chairman of PPKI), Ki Bagus Hadikusumo; and K.H. Abdul Kahar Muzakir. These four figures played a major role in formulating the Jakarta Charter as the first final concept for formulating the Pancasila.

For the struggle, the greatness of soul, and statesmanship of the Muhammadiyah leaders, in the end, all representatives of other Islamic figures agreed to replace the seven words in the First Precepts of Pancasila as the consensus of the Jakarta Charter on June 22, 1945. The first precept of the Jakarta Charter version of Pancasila reads, "Belief in the One and Only God with the obligation to carry out Islamic law for its adherents." The phrase "with the obligation to carry out Islamic law" was deleted and replaced with: "Belief in the Almighty God," which was later ratified on August 18, 1945.

Apart from that, one of the weaknesses of the drafters

of the 1945 Constitution was that the concept of a constitutional state of Pancasila had not been formulated conceptually in the Constitution itself. Until now, we know or can only mention the term Pancasila state law as the Indonesian legal system without having a paradigmatic framework that has a strong legitimacy footing. The provisions of Article 1, paragraph (3) of the 1945 Constitution only emphasize Indonesia as a state of law without explicitly explaining the concept of a state under the law of Pancasila. Even in the version of the 1945 Constitution before the amendment, in the "Explanation" section of the 1945 Constitution, there is an editor who briefly explains Indonesia as a legal state by using the term "rechtsstaat" and not a state of power, which is matched with the term "machstaats." At this point, it appears that the influence of the state legal system of "civil law" or continental Europe in the minds of the formulators of the 1945 Constitution is very strong.

Not to mention the other characteristics of the "civil law" state law model that are carried out in the judicial power system, including (a) the legal codification system, (b) the strong influence of the principle of legal certainty (legality principle), the strong influence of positivistic understanding in the reasoning of judges' decisions. Plus, the existence of the State Administrative Court (PTUN) as a guarantor of the human rights of citizens from arbitrary actions by state and government officials. After the amendment to the 1945 Constitution, the "Explanation" section was removed so that the current format of the 1945 Constitution only consists of "the Preamble and the Body" section, which consists of Articles. On the other hand, various independent state institutions emerged, such as the Corruption Eradication Commission (KPK), the National Press Agency, Komnas HAM, the Ombudsmen Institute, and the Constitutional Court. The use of the Omnibus Law concept in the formation of the Job Creation Law (UU No.11/2020) is an indicator of how strong the influence of the "common law" (Anglo-Saxon) legal system is in the development of the national legal system after the amendment to the 1945 Constitution.

In addition, the strong influence of collectivism or socialism as the main characteristic of the communist legal system or socialism can be shown by the fact that there are still many laws or legal products in the name of social justice or the public interest, but in fact, social justice or public interest is the version of the state or group of investors and the version of the victims' development. The notion of socialism puts forward collectivism or common interests, but the state holds a monopoly and a single interpretation. The supreme supremacy of law is in the hands of the ruler. The ruler is identical to the law itself. The law is carried out in an authoritarian manner and is subject to the interests of the ruling regime. People's freedoms



tend to be silenced in all aspects. The legal politics of the Job Creation Law, the Mineral and Coal Law, and Law No. 2/2012 related to land acquisition for development in the public interest are examples of how the legal development system is still influenced by socialist-communist (socio-legalist) and capitalist-liberal state law regimes (civil law and common law).

In the spectrum of *"Darul Ahdi Wa Syahadah,"* Pancasila must be placed as the final consensus of the nation as the basis of the Indonesian state, as stated in the Preamble to the 1945 Constitution. The basis of the state is laid down in the 1945 Constitution because of the position of the 1945 Constitution as the highest source of law in the national legal system. For this reason, it is necessary to unite the concept of understanding and collective awareness of the nation's elements to realize the ideal concept of the Pancasila legal state. The unitary concept of understanding in question includes:

- The need for a comprehensive historical understanding and national spirit regarding the background of the formulation of the basic state Pancasila and the 1945 Constitution is as a written constitution. There is a strong causal relationship between the meanings contained in the "Preamble" and the "Articles" in the body of the 1945 Constitution. The Preamble contains a statement of independence, legal ideals, ideals of independence, and national goals to be achieved by the Indonesian nation after independence. The Preamble also contains the noble values of Pancasila as a manifestation of the soul and personality of the nation, philosophy, and choice of ideology in the nation and state.
- The formulation of legal norms contained in the "Articles" or parts of the torso of the 1945 Constitution as a body element (physical) is a crystallization and mirror of the strong spiritual-spiritual (spiritual) bond. It is contained in the "Preamble" of the 1945 Constitution, especially the implementation of the five noble values of Pancasila. The five precepts include (a) Belief in the Almighty God, (b) Just and civilized humanity, (c) The Unity of Indonesia, (d) Democracy guided by the inner wisdom in the unanimity arising out of deliberations among representatives, and (e) Social justice for the whole of the people of Indonesia.
- The fundamental requirement as a country that proclaims its independence must have a clear constitution and ideology or state basis. This requirement is important so that the guarantee of state sovereignty gets legitimacy and recognition internally and internationally. Therefore, the day after the proclamation of independence, or to be precise, on August 18, the Indonesian state already had the 1945 Constitution as an official constitution, which also contained the state ideology, Pancasila, which was sourced from the distinctive values and personality of the nation. The Constitution will become a living and

undying Constitution (immortal Constitution) in the life of the nation if the realization of the integration and harmony of the values of Pancasila, the ideals of law, and national goals contained in the "Preamble" with the material of the articles or parts of the "Trunk of the Body" as one unity of spirit and integralist meaning.

- Pancasila is not only limited to the state ideology but is also the source of all legal sources in force in Indonesia. Such affirmation, contained in MPRS Decree No. XX/MPRS/1966 in conjunction with Law no. 12 of 2011. Therefore, the values of Pancasila must be the main guideline in any national legal development policy, especially in the context of the formation of laws and regulations, including the 1945 Constitution as the highest basic law in the hierarchy of the national legal system. In the administration of the state, all state apparatus, officials, leaders, organs of power, or state institutions, including citizens, are obliged to uphold the noble values of Pancasila in all aspects of life.

The term "paradigm" by Khun is used to designate two main meanings. First is a total constellation of thoughts, beliefs, perceptual values, and techniques adopted by academics and practitioners of certain disciplines that affect their perspective of reality. Second, as a human effort to solve the secrets of science that is able to overturn all existing assumptions and rules. The essence of "paradigm," as introduced by Scott, contains several aspects of emphasis, first, as a new achievement which is then accepted as a way to solve problems and future problem-solving patterns. Paradigm is a way of solving problems that should have predictive power in the future. Second, it is a unit of values, methods, measures, and general views that certain scientists use as a scientific way of working on that paradigm. Thus, the term "paradigm" is actually a perspective, values, methods, and basic principles to solve a problem faced by a nation in the future.

At least there are three paradigmatic frameworks of the concept of "Darul Syahadah" (state of witness). First, Muhammadiyah, with its existing characteristics, tries to make itself a *uswah* or a model that can be a reference for the community. By affirming Indonesia as a *darussyahadah* or a witnessing state, Muhammadiyah wants to show that, with progressive Islamic teachings, Muhammadiyah can lead it into a developed Indonesia. Islam is a determining factor that determines the character of Indonesia because the majority of the Indonesian people are Muslims. Second, the character of Muslims and the activities of Islamic organizations are determined by how they understand the teachings of Islam itself. Therefore, the first step to making Indonesia a "Darus Syahadah" starts with efforts to build a progressive thinking mindset. This mindset will greatly affect the character of a progressive personality, which culturally will have broad sociological implications for forming a community in a developed society. Third, apart from being cultural,



Muhammadiyah also wants to be involved in processes related to the drafting of laws or the implementation of other laws and regulations associated with the governance of state administration as well as those related to moral development or national character.

So far, there has been some relevant research. Tahir Azhary's dissertation research concludes that the rule of law, as stated in the 1945 Constitution, is a general term (*genus begrip*) that is still abstract and has multiple interpretations. The term the rule of law in question consists of five concepts; (1) the concept of an "Islamic nomocracy" whose main sources are the Qur'an and the Sunnah; (2) the concept of a state of law (civil law) or "rechstaat," (3) the concept of a state of law "rule of law or "Anglo Saxon/Common Law"; (4) the concept of sociality legality and (5) the state law of Pancasila. The concept of a state of law "Islamic nomocracy" has fundamental elements: (a) trust; (b) justice; (c) equality; (d) recognition and protection of human rights; (e) free trial; (f) peace; (g) welfare; and (h) people's obedience. The concept of a state of law "socialist legality" is the concept of a state of law that is implemented in countries that adhere to communist and socialist ideas, such as Russia, China, and Cuba. The main elements of this rule of law concept are: (a) law is placed under socialism, (b) law is a tool to achieve socialism. (c) Individual rights can be channeled to the principles of socialism, even though these rights are still protected.

In the perspective of Oemar Seno Adji, the forms of the rule of law that are practiced in Indonesia are: (1) the concept of "rechstaat," (2) the concept of 'the rule of law,' (4) the concept of "socialist legality" and the state of Pancasila law. The concept of "the rule of law" is only a mere development of the concept of "rechstaat." Between the concept of "the rule of law" and "socialist legality," they experienced different historical and ideological developments. The concept of "rechstaat" and "rule of law" was developed in Britain, continental Europe, and the United States, while the concept of "socialist legality" developed in communist and socialist countries. However, all three are born from the same root, namely humans as the central point (anthropocentric), which places rationalism, humanism, and secularism as basic values that are the source of values.

Muhammad Tahir Azhary By introducing the views of Oemar Seno Adji, he concluded that the concept of a legal state in Indonesia has the characteristics of Indonesia because it has a state view of life, namely Pancasila. Pancasila must be appointed as the main basis, and source of law, then the Indonesian state of law can also be called the state of Pancasila law. One of the main characteristics of the state of Pancasila law is the guarantee of freedom of religion. Although in the explanation of the 1945 Constitution, the term *rechtstaats* is used, what is adopted by the Indonesian state is not the concept of *rechtstaats* and not the concept of the rule of law, but the concept of a state based on Pancasila. The concept of a constitutional state

of Pancasila is characterized by: (1) there is a close correlation or relationship between religion and the state; (2) relying on God Almighty, (3) freedom of religion in a positive sense, (4) atheism is not allowed, and communism is prohibited; and (5) the principle of kinship and harmony.

Baidhawiy research about alternative meanings of the concept of the state in the spectrum of Islam and Pancasila and Nasir's research regarding a careful understanding of Islamic Sharia is also a very appropriate reference for comparison because the focus of the issue is examining the relationship between Islam, Pancasila, and the Unitary State of the Republic of Indonesia. There needs to be an alternative meaning of the concept of the state in the Islamic frame and the Pancasila frame, which is a new concept in interpreting the "sharia state" in accordance with the Indonesian context.

This correlates with the results of Nashir's research, which examines the efforts of Islamic groups who struggle to uphold Islamic law as the basis of the Indonesian state and the struggle to replace the Unitary State of the Republic of Indonesia with an Islamic caliphate, especially during the Indonesian reform period.

The diverse views of experts and the strong influence of foreign ideologies and legal systems greatly affect the interpretation, value orientation, and objectives of the development of national law. Many products of laws and legal policies have been rejected because they do not bring benefits and prosperity to the people of Indonesia. As a result, the values of Pancasila as an essential element of "*Darul Ahdy Wa Syahadah*" have not fully become the ideology of the national legal system. It is necessary to develop the identity of a scientifically rational national legal system that becomes a clear distinguishing feature from the legal systems of other countries. That way, the affirmation of Indonesia as a "state of law" in the 1945 Constitution after the amendment has a solid and strong conceptual framework. It is not just "lip service" and is always ambivalent, as is the practice so far.

In the spectrum of *Darul Ahdy Wa Syahadah*, the development of the concept of the rule of law in Indonesia must be based on a paradigm or basic conception of thinking. Furthermore, it is named the "Pancasila legal theory or the concept of the Pancasila legal state," which stands on the following paradigmatic framework: First, Pancasila is a legal ideal, reflecting the ideology and foundation of the state, soul, and personality, as well as a view of life so that it must underlie all life and foundations of the main development of national law. Second, good legal characteristics are laws that reflect the character, personality, and values of the nation's philosophy, namely Pancasila as the basic principle of the state, which originates and has lived and developed in Indonesian society so far. Third, absolute law is sourced and has a spiritual dimension. The highest legal justice is determined and sourced from the First Precept of Pancasila, namely Belief in One God who animates all other precepts as a





manifestation of spiritual, ethical, moral, social-humanitarian beliefs, and common interests (people's interests) without neglecting the value of expediency and legal certainty.

Fourth, Pancasila is the source of all sources of law. The institutionalization and integration of Pancasila values include all legal products that apply in Indonesia, taking into account the diversity of values of local wisdom and local law (customary law) as a mosaic of the nation's wealth without ignoring the positive influence of legal values from foreign countries. Fifth, the law is for justice and humanity, not for humans. If the law is for human needs, then the law can be misused and manipulated in the hands of unjust rulers and untrustworthy law enforcers. If the law is for justice and humanity, then these two values will be absolute and universal so that the orientation of the law will always have the value of justice and bring benefits to humans.

Sixth, the law not only acts as a means of social-community engineering and bureaucratic renewal but must be able to create balance and restore the order of life in society as a nation and state that is safe, orderly, and peaceful within the scope of the national interest. Seventh, the behavior of the authorities, law enforcement officers, bureaucratic apparatus, and the wider community is not determined by the good substance and legal system that is built but is greatly influenced by the extent to which the appreciation, civilization, and institutionalization of Pancasila values into each person individually and collectively communal, including actors of power, state institutions in the practice of administering the state as a whole.

## CONCLUSION AND RECOMMENDATION

In the spectrum of *Darul Ahdy Wa Syahadah*, the concept of a constitutional state of Pancasila has a distinctive Indonesian character. There is a strong symbiotic-mutualism relationship between religion and the state. Moral power, authority, and moral law must be derived from religious morals. The basic formulators of the state did not form the values of Pancasila but are the result of contemplation of thought, crystallization, and the process of deposition of the noble values of the nation's culture that already exists, and its age is far beyond the formation of the Indonesian state. The state of Pancasila law requires the harmonization of values, integration, and reciprocity between the five values in the Pancasila precepts. Legal justice is born and comes from the essence of the first principle, which animates all other precepts in an integrative way. The state of Pancasila law does not rely on a capitalist ideology that believes in "individualism" and "liberalism-secularism." Nor is it based on theocratic ideology (religious state), let alone socialist-communist ideology with narrow and authoritarian "collectivism" ideas. The state of Pancasila law is in line with Islamic law and the spirit of the national ideology of the Muhammadiyah association.

Pancasila and the Unitary State of the Republic of Indonesia are the greatest gifts of Muhammadiyah and Muslims to Indonesia without denying the significant role of other circles. The offer of the seven concepts of the state of law Pancasila above can be interpreted as a form of Muhammadiyah constitutional jihad to realize the concept of an ideal state of law and make the ideology of Pancasila as the identity of the development of the national legal system in the future.

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