

## LEGAL REFORM: APPLICATION OF PANCASILA VALUES AND UTILITARIANISM IN ACHIEVING JUSTICE

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### Abstract

Legal reform is an effort to improve the existing legal system with the aim of realizing better justice for society. In the context of applying the values of Pancasila and utilitarianism, there is an interesting approach that can provide a comprehensive view of legal reform efforts. First of all, Pancasila values as the basis of the Indonesian state have moral principles that can be used as a basis for forming laws. Principles such as social justice, democracy and fair humanity can be a basis for formulating legal policies that prioritize the interests of society as a whole. Meanwhile, the utilitarianism approach which emphasizes the concept of as much happiness or well-being as possible for as many people as possible can also be an important consideration. In legal reform. By taking into account the impact of a legal policy on the welfare of society at large, the application of utilitarianism can help assess the effectiveness and justice of a legal regulation. This can be reflected in efforts to create legal policies that are not only based on moral values, but also take into account positive consequences for society as a whole. Thus, the application of Pancasila values and utilitarianism in legal reform can be a strong foundation in realizing better justice for all Indonesian society.

**Keywords:** legal reform, Pancasila values, utilitarianism, justice

### INTRODUCTION

Abra, E. H., & Wahanisa, R. (2020) stated that legal reform is an important foundation in the development of a country, especially in the Indonesian context. This article illustrates the important role of legal reform in

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creating a solid foundation for economic growth, human rights protection, and social stability. Reform measures, ranging from regulatory improvements to fair law enforcement, demonstrate efforts to create an environment that supports investment, innovation and inclusive economic growth. In practical aspects, legal reform includes increasing access to justice, fair law enforcement, and protecting economic rights. By ensuring that all citizens have equal access to justice, as well as enforcing equal legal accountability without exception, legal reform has the potential to increase public trust in the legal system and its enforcement institutions.

Pancasila is the basis of the Indonesian state, Pancasila is also the fundamental basis for the administration of the Indonesian state. Pancasila values themselves are the basis for all Indonesian Government policies. Pancasila as the basis of the Indonesian state has a fundamental role in the life of the nation and state, if implemented consistently, the Pancasila value can lead the Indonesian nation towards a just and prosperous society. Pancasila is the basis of the Indonesian state which has an important role in forming the legal system and maintaining social justice. Social justice is a principle upheld in the Indonesian constitution, and Pancasila as the legal basis provides a philosophical and ideological basis for achieving this goal. In an ever-developing global context, social justice is becoming an increasingly relevant issue, where social inequality and injustice are challenges that need to be overcome. Therefore, it is important to examine the role of Pancasila as a legal basis in realizing social justice in Indonesia (Laksana, 2021). Legal reform is an effort that has been made to make changes or updates to the existing legal system in a country.

Since the reform era in 1998, legal reform efforts have become one of the government's main focuses in order to build a more democratic, transparent and accountable legal system. One of the main aspects of legal reform is efforts to improve social justice. Social justice is the principle underlying the formation of the Indonesian state, as stated in the Preamble to the 1945 Constitution. This is important because injustice in the legal system can cause social inequality which further worsens the condition of society. Apart from that, legal reform also faces various challenges and complexities in the Indonesian context (Priamsari et al., 2022).

Samad, Z. I., & Noviarini (2022) stated that law has a central role in regulating people's lives, upholding justice, and creating social order. However, in making legal decisions, there are various ethical views and theories that can be used as guidelines. One significant ethical theory is utilitarianism, developed

by Jeremy Bentham in the 18th century. Utilitarianism is an ethical approach that focuses on the principle of maximizing happiness and reducing suffering. This theory emphasizes that moral actions can be judged based on the resulting consequences, especially in terms of the level of happiness obtained by as many individuals as possible. In a legal context, the application of utilitarianism requires making legal decisions that are oriented towards overall social interests. The application of the principles of utilitarianism in the assessment of justice and legal effectiveness has significant consequences.

In a legal context, the goal is to ensure as much happiness as possible for society. The theory of utilitarianism views actions as good if they provide benefits and advantages, while actions are bad if they cause suffering and loss. Bentham used the term "The greatest number" to state that ethical actions can be felt by everyone through happiness, which should be impartial and can be felt by anyone (Wijaya et al., 2022).

Talking about the theory of utilitarianism will certainly not be far from the figure who is famous for the theory of utility, namely Jeremy Bentham. Jeremy Bentham himself was a philosopher and jurist who emerged in the 18th century. Bentham said that he criticized the concept of natural law, because he considered that natural law was not vague and not fixed (Ismanto, D., & Bayu, 2022). From there, Bentham wanted the greatest good and happiness for the largest number of citizens is the goal of the law. Thus, the idea prioritizes advantage as the primary objective of legislation. The ability of the law to bring happiness to humans ultimately determines whether or not it is fair, as it should ultimately aim to maximize happiness for the largest number of individuals. Happiness and usefulness have the same definition (Saputri, 2021).

When related to law, of course it must have the aim of ensuring as much happiness as possible for society. Utilitarianism is essentially an ethical theory that defines good deeds as those that are beneficial, profitable, and useful; on the other hand, bad deeds are those that result in pain and loss. Because happiness is a universal emotion that should be felt by all, Jeremy Bentham coined the phrase "The greatest number" to describe how everyone can feel an ethical or moral activity. Thus, what Jeremy Bentham formulated tends to prioritize useful things without considering concrete aspects. This creates difficulties in accepting Bentham's view, because what is considered beneficial does not necessarily fulfill the value of justice. In this context, if benefits are emphasized, the value of justice can be shifted, and if certainty is prioritized because the law is considered the main goal, this can sacrifice the value of benefits or benefits and the value of justice (Mansar, A., & Minin, 2020).

## **RESEARCH METHOD**

This research in-depth investigates legal reform: the application of Pancasila values and utilitarianism in realizing justice using a literature review approach. The results include a comprehensive understanding of legal reform, the application of Pancasila values in realizing justice, the application of utilitarianism in realizing justice. Literature analysis involves an in-depth study of literature related to legal reform, the application of Pancasila values and utilitarianism, and realizing justice. With a strong conceptual foundation, this research makes an important contribution to enriching the discussion regarding how to apply the values of Pancasila and utilitarianism in realizing justice.

## **RESULT AND DISCUSSION**

### **Pancasila as a Legal Basis for Realizing Social Justice**

Andriawan, W. (2022) stated that in the context of social justice, there are several Pancasila values that are relevant and can be the basis for realizing social justice in Indonesia. First, the principle of Belief in the Almighty God emphasizes the importance of religious and moral attitudes in the life of the nation and state. The religious values reflected in Pancasila serve as guidelines for upholding justice and equality among individuals and community groups. Second, the principle of Just and Civilized Humanity emphasizes the importance of respecting human dignity and treating all people fairly. Social justice is emphasized in this principle, where every individual has the same right to obtain justice in various aspects of life, such as education, health and the economy. Third, the principle of Indonesian Unity shows the importance of unity and unity in a diverse society. This principle of unity and unity builds the foundation for the elimination of all forms of discrimination and injustice that may occur in society. Fourth, the Populist principle Led by Wisdom in Deliberation/Representation emphasizes the importance of the people's active participation in the decision-making process. Social justice can be realized when policies and decisions taken through people's representatives take into account the interests and welfare of all levels of society. Fifth, the principle of Social Justice for All Indonesian People underlines the importance of realizing social justice as a state goal. Social justice includes equitable distribution of resources, protection of rights and justice, and increased welfare for all Indonesian people.

In the context of social justice, this precept is an important basis for formulating public policies aimed at overcoming social inequalities, reducing poverty, and ensuring fair access to public resources and services. Through the

application of Pancasila values as a legal basis, it is hoped that a legal system that is just and equitable can be created for all of society. Pancasila provides guidance for the formation of laws and policies that ensure the protection of human rights, religious freedom, equality before the law, as well as equal opportunity and access to basic services. The application of Pancasila as a legal basis also places social justice as a state commitment. The government and related institutions are expected to translate Pancasila values into concrete actions, such as formulating economic policies that support the wider community, equitable infrastructure development, and alleviating poverty (Sundari et al., 2022).

Apart from that, Pancasila is also the basis for cultural diversity and justice. Indonesia, as a country with diverse ethnicities, religions and cultures, makes it important to respect differences and justice in maintaining social harmony and avoiding conflict. In order to realize social justice, policy makers and society need to understand and apply the values of Pancasila well. There needs to be real efforts to strengthen understanding and awareness of the importance of social justice and ensure that the values of Pancasila are reflected in every aspect of social, national and state life. Thus, the recognition and application of Pancasila as a legal basis becomes a strong foundation for realizing social justice in Indonesia. Through a deep understanding of Pancasila and its implementation in real policies and actions, it is hoped that a just, equitable and prosperous society can be created for all Indonesian people (Muqsith et al., 2022).

Social justice is a fundamental tenet of Indonesian law that is represented in the 1945 Constitution, the State Constitution. The 1945 Constitution's Article 27 paragraph (1) declares that "Every citizen has the same position in law and government and is obliged to maintain unity and integrity. nation." The idea of equality before the law, which ensures that each person has the same rights to seek legal protection, is emphasized in this article. The Preamble to the 1945 Constitution, which declares that the aim of the Indonesian state is "to realize social justice for all Indonesian people," likewise emphasizes the idea of social justice. This shows the state's commitment to creating equality, justice and prosperity for all Indonesian people (Emilia et al., 2022).

The legal basis for realizing social justice in Indonesia is contained in various laws and regulations. One important legal foundation is the 1945 Constitution, which includes basic principles of social justice. Apart from the law, the legal basis for realizing social justice is also supported by an

independent and fair judicial system. This justice system is tasked with enforcing the law objectively, resolving disputes fairly, and providing legal protection for all parties without discrimination (Rahman et al., 2024). Furthermore, government programs directed at achieving social justice also become the legal basis for realizing this goal. For example, poverty reduction programs, free education programs, equal access to health, and fair resource redistribution policies. In the entire Indonesian legal system, the principles of social justice are implemented through a legal basis which includes laws, statutory regulations and a fair judicial system. With a strong legal foundation, it is hoped that a legal system that is just and capable of realizing social justice will be created for all Indonesian people. In Indonesia, the legal basis for realizing social justice is contained in various legal regulations that refer to the principles of Pancasila and the constitution. The following are some relevant legal bases:

1. **1945 Constitution:** The Indonesian Constitution, especially the Preamble to the 1945 Constitution, provides a strong foundation for realizing social justice. Article 27 paragraph (2) states that the state is responsible for creating fair opportunities for every citizen and Article 33 mandates the government to regulate and control the economic sector to achieve shared prosperity.
2. **Employment Law:** Indonesian Employment Law, such as Law Number 13 of 2003 concerning Employment, provides a legal basis for protecting workers' rights and regulating the relationship between workers and employers. This law plays a role in creating fair working conditions, providing decent wages, and ensuring equal treatment for all workers.
3. **Consumer Protection Law:** Law Number 8 of 1999 concerning Consumer Protection provides a legal basis for protecting consumers from detrimental business practices and guaranteeing access to quality goods and services. Through this law, the government aims to create fair conditions for consumers, especially those who are vulnerable.
4. **Education Law:** The Indonesian National Education System Law, such as Law Number 20 of 2003 concerning the National Education System, provides the legal basis for realizing fair and equitable access to education for all citizens. This law mandates the provision of quality, inclusive and quality education for all levels of society.
5. **Poverty Alleviation Law:** Law Number 13 of 2011 concerning Poverty Alleviation provides the legal basis for the government's efforts to reduce and eradicate poverty. This law includes economic empowerment

programs, social services and social protection which aim to improve the welfare of underprivileged communities. Apart from these laws, there are also other regulations specific to certain fields, such as agrarian law, environmental law, child protection law, and human rights law, which provide the legal basis for realizing social justice in their respective contexts.

Pancasila is the philosophy of life of the Indonesian people which is the basis of the state. One of the points in Pancasila is social justice for all Indonesian people. As a legal basis, Pancasila provides a strong foundation for realizing social justice in various aspects of society, including the legal system. Pancasila emphasizes principles that can lead to social justice, such as unity, justice, democracy, social welfare, and belief in the one and only God. The following are several ways that Pancasila has become the legal basis for realizing social justice (Aldyan, A., & Negi, 2022):

1. Equality before the Law: Pancasila guarantees that every citizen has equal rights before the law. This reinforces the principle that every individual has the right to receive fair and equal treatment in the legal system.
2. Protection of Human Rights: Pancasila recognizes and protects human rights, including the right to social justice. This includes the right to education, work, health and a good living environment for every citizen.
3. Sustainable Development: Pancasila encourages sustainable and equitable development throughout Indonesia. In a legal context, this can be realized through public policies that support the fair distribution of wealth and opportunities, as well as protecting the rights of minorities and vulnerable groups.
4. Balance Between Rights and Obligations: Pancasila teaches a balance between rights and obligations. In this case, the law must be able to enforce the moral and social obligations of every citizen to respect each other, work together and respect diversity.
5. Equal distribution of welfare: Pancasila emphasizes equal distribution of social welfare as part of social justice. This includes the distribution of natural resources, public services, and economic policies that support all levels of society, including the less fortunate.

Thus, Pancasila as a legal basis not only regulates the formal legal structure, but also provides moral and philosophical principles that encourage society and the government to act to achieve social justice. Good implementation of Pancasila values in the legal system is very important to ensure that social justice can truly be felt by all Indonesian people.

### **Application of Pancasila Values in Realizing Justice**

According to Setiyawan et al., (2022) Pancasila is the nation's philosophy of life which aims to create a just and prosperous society. Pancasila acts as a guideline in society, nation and state. By consistently understanding and implementing the values of Pancasila, Indonesia can become a developed and dignified nation in the eyes of the world. To achieve a just and prosperous society, we must also strengthen the application of Pancasila. The application of Pancasila values is a fundamental foundation in building an advanced and just Indonesian nation.

The application of Pancasila values plays an important role in realizing justice in Indonesia. Theoretically, Pancasila is used as the basis for regulating state government and state administration. There are five principles as filosofische grondslag for Indonesia, namely Indonesian nationalism, internationalism or humanity, consensus or democracy, social welfare, and civilized divinity (Madung, O. G., & Mere, 2021).

Pancasila is firm and sharp in upholding justice, so that anyone who makes a mistake must receive punishment according to the level of their mistake without any tolerance in order to create a just and dignified Indonesia. In Bagir Manan's view, according to Pancasila, the judiciary's duties include applying the law, upholding the law, and preserving justice (Utami, N. S., & Putri, 2023). The fifth Pancasila principle, Social Justice for All Indonesian People, stresses the importance of social justice. Creating a prosperous people without economic, social, cultural and political disparities is the goal of this social justice value. The development of Indonesia's legal state in the future must be more substantial, namely ensuring the realization of a state based on social justice. According to Pancasila, a balanced approach to social justice would satisfy both material and spiritual needs, as well as the needs of individuals and society. It would also strike a balance between the realization of civil and political rights and the realization of economic, social, and cultural rights. Therefore, the realization of a just and equitable legal system for all Indonesians depends on the implementation of Pancasila values, particularly the values of social justice.

The application of Pancasila values in realizing justice is very important in the life of the nation and state in Indonesia. Pancasila as the basis of the state contains five basic values, each of which has its relevance and role in the context of justice. The following are some of the Pancasila values and how they play a role in realizing justice (Muin, 2023):

1. **Belief in the Almighty God:** This value emphasizes the importance of justice as part of religious teachings and universal morality. Justice in this context includes fair treatment of all citizens, regardless of their religion or beliefs.
2. **Just and Civilized Humanity:** This value demands fair treatment of all individuals regardless of ethnicity, race, religion or gender. Justice in this context is treatment that is non-discriminatory and respects human dignity.
3. **Indonesian Unity:** The value of unity plays a role in realizing social justice in society. Social justice means ensuring that all citizens have equal access to opportunities, resources and public services.
4. **Democracy Led by Wisdom in Deliberation/Representation:** This value emphasizes the importance of active community participation in the decision-making process. In the context of justice, this means ensuring that decisions made by the government represent the interests and aspirations of all Indonesian people.
5. **Social Justice for All Indonesian People:** This value demands a fair distribution of economic, social and cultural resources in society. Social justice in this context is creating conditions where every citizen has equal access to opportunities to improve their quality of life.

By applying Pancasila values consistently and integrally in all aspects of state life, including in policy making, law implementation and social regulation, Indonesia can achieve the goal of realizing justice for all its people. This not only includes justice in the formal sense, but also substantial justice which creates equal and just social conditions for all citizens.

### **Analysis of the Application of Utilitarianism in Realizing Justice**

The application of utilitarianism in realizing justice involves the concept that the actions taken must produce the most beneficial consequences for as many people as possible. In the context of justice, this means that decisions or policies must be based on their ability to create maximum happiness or prosperity for the entire community. In analyzing the application of utilitarianism in realizing justice, it is necessary to consider that justice often involves the distribution of resources and decisions regarding priorities in public services. In this case, a utilitarianism approach would require careful evaluation of the consequences of policies or actions taken on the welfare of the entire society. This can include considerations of equality, distributive justice, access to health and education services, and fair treatment for all individuals. However, criticism of the application of utilitarianism in the context of justice often arises, especially regarding the risk of ignoring the human rights of

individuals and minority groups. . Utilitarianism tends to emphasize overall results, so that in the context of justice, this can lead to inequality or injustice for vulnerable or marginalized groups (Rydenfelt, 2021). Thus, analysis of the application of utilitarianism in realizing justice needs to take into account the balance between individual interests and collective interests, as well as considering the moral values that underlie justice itself. Utilitarianism can be a useful tool in achieving greater justice, but it must be used carefully and wisely so as not to sacrifice justice for some parts of society for the benefit of others.

The application of utilitarianism in the context of realizing justice involves an approach that focuses on the consequences or results of the actions or policies taken. Utilitarianism assesses justice based on how much happiness or well-being it produces for as many people as possible. The following are several analyzes regarding the application of utilitarianism in realizing justice (Khan, M. Y., & Ishaq, 2024):

1. Consequential Approach

Utilitarianism emphasizes that the actions or policies taken should produce the most overall beneficial results for society. In the context of justice, this means considering the greatest positive impact on the welfare of society as a whole.

2. Distribution of Resources and Welfare

Utilitarianism can be applied to consider how best to distribute resources and social benefits to achieve maximum welfare. This may include considerations about how to provide equitable access to education, health services, and economic opportunities to maximize social welfare.

3. Principle of Majority Interest

Utilitarianism tends to support decisions that meet the interests of the majority of people. In the context of justice, this could be a critique of the possibility of ignoring or harming minorities. Therefore, it is important to consider ways to protect the rights of individuals and minority groups.

4. Evaluation of Justice in the Future

One of the main challenges in applying utilitarianism is predicting and evaluating the long-term consequences of the policies taken. This is important because true justice must consider long-term sustainability in creating fair conditions for future generations.

Criticism of the Application of Utilitarianism in Justice (Kolosov, I. V., & Sigalov, 2020):

1. **Limitations of Utilitarian Calculation:** Estimating and measuring the impact of all actions or policies on the overall welfare of society is a complex task and difficult to do accurately.
2. **Ignores Individual Human Rights:** The main criticism of utilitarianism is that its results-focused approach can ignore individual rights or underlying moral values.
3. **Balance between Welfare and Justice:** Utilitarianism often faces the dilemma of considering overall welfare versus fair distributive justice. How can we ensure that equal distribution of benefits does not ignore the needs of more vulnerable individuals or groups?

In conclusion, the application of utilitarianism in realizing justice offers an approach that focuses on achieving maximum welfare for society as a whole. However, this approach also requires a careful balance with the values of justice, individual rights, and deep ethical considerations to ensure that the decisions taken actually result in substantial justice for all members of society (Sari, J. D., & Masykur, 2022).

## **CONCLUSION**

Legal reform is an important process to improve the legal system so that it is fairer and in accordance with the values upheld in society. The application of Pancasila values and utilitarianism in legal reform can have a significant impact in efforts to realize better justice. The following is an analysis of how these two approaches can contribute in the context of legal reform:

1. **Application of Pancasila Values in Legal Reform**
  - a. **Belief in the Almighty God:** This value emphasizes the importance of upholding religious values and morality in law. In legal reform, this can be reflected in fair law enforcement without discrimination based on religion or belief.
  - b. **Just and Civilized Humanity:** This value encourages the fair treatment of all individuals, regardless of social background, race, or gender. In legal reform, this means ensuring that the legal system not only favors the strong, but also protects the rights of all citizens.
  - c. **Indonesian Unity:** The value of unity emphasizes the importance of unity in diversity. In a legal context, this can include developing laws that respect the diversity of cultures and customs in Indonesia, while maintaining unity and fairness in their application.
  - d. **Democracy Led by Wisdom in Deliberation/Representation:** This value emphasizes the importance of active community participation in the

decision-making process. In legal reform, this means listening to the aspirations of the people in drafting laws and legal policies, so that the resulting laws better reflect the interests of the people.

- e. **Social Justice for All Indonesian People:** This value demands a fair distribution of economic, social and cultural resources in society. In legal reform, this can be realized through legal policies that aim to reduce social and economic disparities between various groups in society.

## 2. Application of Utilitarianism in Legal Reform

- a. **Focus on Beneficial Consequences:** The utilitarianism approach emphasizes the importance of producing the most beneficial outcomes or consequences for society as a whole. In legal reform, this means considering the positive impact of legal changes on the welfare of society at large.
- b. **Evaluation of Efficiency and Benefits:** Utilitarianism can be used to evaluate the efficiency of the existing legal system and suggest improvements that can produce maximum benefits for society.
- c. **Decision Making Based on Majority Interests:** Utilitarianism often supports decisions that serve the interests of the majority of people. In the context of legal reform, this can be a consideration for producing laws that better support social justice in general.

The application of Pancasila values and utilitarianism in legal reform can complement each other to create a fairer and more just legal system. Pancasila values provide a strong moral and ethical foundation, while utilitarianism provides analytical tools for evaluating and improving legal policies to make them more effective in achieving social welfare. By combining these two approaches wisely, Indonesia can develop a legal system that not only adheres to moral principles, but also functions optimally in providing justice for all its people.

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