



# TRANSFORMATION OF LEGAL POLITICS IN INDONESIA FROM LIBERAL DEMOCRACY TO PANCASILA DEMOCRACY

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Article Info	Abstract
<b>Article History</b> Received : 2024-12-03 Revised: 2024-12-10 Published: 2025-01-01	The transformation of legal politics from liberal democracy to Pancasila democracy is an important phenomenon in the history of the legal journey in Indonesia. This change reflects the nation's efforts to create a political and legal system that is in accordance with the personality, culture, and values of Pancasila as the state ideology. During the liberal democracy era, law was oriented towards protecting individual rights and the supremacy of law with a legalistic approach. However, this system faced various obstacles, such as political instability, ideological polarization, and weak consistency in law enforcement.
<b>Keywords:</b> <i>Pancasila Democracy,</i> <i>Legal Politics,</i> <i>Legal Transformation</i>	Through the Presidential Decree of July 5, 1959, Indonesia began the transition to Pancasila democracy, which emphasizes the values of deliberation, mutual cooperation, and social justice. This transformation has major implications for legal politics, including a change in legal orientation from individualistic to collective and contextual. However, the implementation of Pancasila democracy is not free from challenges, such as the politicization of law, social inequality, and weak legal culture. This study uses normative methods with a legislative and historical approach to analyze changes in the legal system as well as challenges and opportunities in the implementation of Pancasila democracy today. The results of the study show that, although there are obstacles in the implementation of Pancasila principles, the reform era offers great opportunities to strengthen the legal system through the integration of Pancasila values in legislation, strengthening legal institutions, and digitalizing legal processes.
	With the right strategy, the values of Pancasila democracy can be integrated more effectively into national legal politics, creating an inclusive, just, and sustainable legal system. This research is expected to contribute to the development of legal political theory and become a reference in efforts to strengthen Pancasila democracy as a legal basis in Indonesia.

## I. INTRODUCTION

The transformation of legal politics in Indonesia from liberal democracy to Pancasila democracy is one of the important phenomena in the history of the journey of law and politics in Indonesia. As a country that only became independent in 1945, Indonesia faced various political, social, and economic dynamics that influenced the direction of legal development. The shift from liberal democracy to Pancasila democracy is not just a political change, but also reflects an effort to find a legal system that is in accordance with the cultural values and ideology of the nation.(Sirait et al. 2024)

At the beginning of independence, Indonesia implemented a liberal democratic system as reflected in the 1945 Constitution before the changes during the Old Order. The liberal democracy adopted prioritizes universal

principles such as freedom of speech, multiparty, and the supremacy of law. This system also provides great space for political power to participate in decision-making.(Son 2014)

However, the implementation of liberal democracy in Indonesia has not gone smoothly. The limited capacity of political and legal institutions, coupled with high political instability, has caused liberal democracy to experience various challenges. In practice, the supremacy of law is often displaced by certain political interests. Conflicts between political parties, the rise and fall of cabinets, and increasing ideological polarization between nationalist, Islamic, and communist groups are major obstacles in building legal and political stability.

In addition, the liberal democratic system is considered too individualistic and less reflective of the local and collective values of Indonesian

society based on mutual cooperation. This has led to criticism that liberal democracy is unable to answer the needs of a nation that is building its post-colonial identity.

Significant changes occurred in 1959 when President Soekarno issued the Presidential Decree of July 5, 1959, dissolving the Constituent Assembly and restoring the 1945 Constitution as the country's constitution. This decision marked the beginning of the transition to guided democracy, which later developed into Pancasila democracy.(Son 2014)

Pancasila Democracy, as initiated by Soekarno, aims to create a political system that is more in line with the personality of the Indonesian nation. This system emphasizes the values of deliberation for consensus, mutual cooperation, and social justice that are rooted in the Pancasila ideology. In the context of legal politics, Pancasila democracy seeks to create harmony between law and local cultural values, while also responding to challenges from various conflicting ideologies.

However, the implementation of Pancasila democracy is not free from criticism. In the Old Order era, Pancasila democracy was often used as a legitimacy to centralize power in the hands of the president, thus eroding the principle of checks and balances in the legal system. This can be seen from the dominance of the executive over the legislative and judiciary, as well as restrictions on political freedom and human rights.

The transformation from liberal democracy to Pancasila democracy has major implications for legal politics in Indonesia. During liberal democracy, law was considered an instrument to protect individual rights, with an emphasis on the principles of legality and the supremacy of law. In contrast, in Pancasila democracy, law is seen as a tool to achieve social justice and harmony, by adjusting legal principles to Pancasila values.

These differences create dynamics in the formation and implementation of law. For example, in liberal democracy, the formation of laws is often based on universal principles adopted from western countries. Meanwhile, in Pancasila democracy, the formation of laws prioritizes consensus and deliberation that reflect the collective character of Indonesian society.

However, the implementation of Pancasila democracy also faces various obstacles, such as the politicization of law, weak law enforcement, and inequality in access to justice. This shows that although Pancasila democracy has a strong philosophical foundation, its implementation in

legal politics is often inconsistent with the basic values of Pancasila.(Manan, Abdurahman, and Susanto 2021)

Research on the transformation of legal politics from liberal democracy to Pancasila democracy is important for two main reasons. First, this research can provide a more comprehensive understanding of how political dynamics influence the formation of law in Indonesia. Second, this research can identify challenges and opportunities in implementing Pancasila democracy as the basis for just and sustainable legal politics.

This transformation is not only a shift in political ideology, but also reflects an effort to create a more inclusive legal system that is oriented towards the interests of the wider community. Therefore, this study is expected to contribute to the development of legal political theory in Indonesia, as well as offer recommendations to strengthen the implementation of Pancasila democracy within the national legal framework.

Based on the background above, this study limits the discussion to two main problems:

1. How does the transformation from liberal democracy to Pancasila democracy affect legal politics in Indonesia?
2. What are the challenges and opportunities in implementing Pancasila democracy-based legal politics today?

## II. RESEARCH METHODS

This study uses a normative research method with a statute approach and a historical approach. The statute approach is used to analyze various regulations and legal documents relevant to the transformation of legal politics in Indonesia, including the 1945 Constitution, legal products of the liberal democracy era, and legal policies during the Pancasila democracy era. The historical approach is used to understand the political, social, and economic contexts that influence changes in the Indonesian democratic system and legal politics from time to time.(Indra Utama Tanjung 2024)

The data used in this study are sourced from primary legal materials, such as constitutions, laws, and presidential decrees, as well as secondary legal materials, such as books, scientific journals, and relevant academic articles. Data analysis was conducted qualitatively with an emphasis on critical interpretation of legal texts and their historical contexts, in order to explore

the relationship between political dynamics and legal formation in the two periods of democracy.(Yam 2022)

### **III. RESULTS AND DISCUSSION**

#### **A. The transformation from liberal democracy to Pancasila democracy influences legal politics in Indonesia.**

The transformation from liberal democracy to Pancasila democracy is one of the fundamental shifts in the political and legal journey in Indonesia. This shift not only involves changes in the government system, but also influences the legal paradigm that applies in Indonesia. As part of the long history of the formation of national law, this transition illustrates the state's efforts to find a political and legal model that is in accordance with the personality of the nation and the needs of a pluralistic society.(Dewantoro and Dian Alan Setiawan SH 2023)

At the beginning of independence, Indonesia adopted a liberal democratic system as reflected in the implementation of the 1945 Constitution before the amendment. Liberal democracy prioritizes individual freedom, multi-party, and the supremacy of law as the main foundations in managing the country. Legal politics at this time were greatly influenced by universal values that developed in the western world, especially after World War II, where newly independent countries tended to imitate the western democratic system.

In the context of Indonesia, liberal democracy is expected to be the foundation for building a sovereign, democratic, and modern state. Legal politics at this time focused on the formation of laws that guarantee citizen freedom, including freedom of speech, freedom of the press, and freedom of association. A concrete example can be found in the Provisional Constitution of 1950 which provides a legal framework for the implementation of liberal democracy.

However, the implementation of liberal democracy in Indonesia faces various obstacles. One of them is political instability marked by the rise and fall of cabinets in a short time. This results in weak consistency in the creation and implementation of laws. In addition, too many multi-parties create ideological polarization, thus hampering the political decision-making process. This condition shows that liberal democracy, despite having a strong legal basis, is not fully able to answer the needs of Indonesian society which has collective and plural characteristics.(Muliadi and Assaad 2024)

The transformation towards Pancasila democracy began with the issuance of the Presidential Decree of July 5, 1959 by President Soekarno. This decree dissolved the Constituent Assembly and restored the 1945 Constitution as the country's constitution. This step was taken after the Constituent Assembly failed to reach an agreement on the basis of the state, reflecting a political deadlock in the liberal democratic system.

The Presidential Decree has major implications for legal politics in Indonesia. First, the return to the 1945 Constitution gives greater authority to the president as head of state and head of government. This marks the beginning of the transition from liberal democracy to guided democracy, which later developed into Pancasila democracy. Second, this decree paved the way for strengthening the role of the Pancasila ideology in the formation of national law, where values such as mutual cooperation, deliberation, and social justice become the main foundations.(Gemilang, Ismaidar, and Zarzani 2024)

From a legal perspective, this decree is often considered a form of constitutional deviation because it bypasses the applicable constitutional mechanisms. However, in a political context, this decree is considered a necessary step to overcome the national crisis. This shows how political dynamics can influence the formation of law, especially when the country is facing an emergency situation.

Pancasila Democracy, as initiated by President Soekarno, aims to create a political and legal system that is in accordance with the personality of the Indonesian nation. This system emphasizes the values of deliberation for consensus, mutual cooperation, and social justice as the basis for political decision-making and the formation of laws. In the context of legal politics, Pancasila democracy emphasizes the importance of harmony between law, ideology, and local cultural values.(Son 2014)

One example of the implementation of Pancasila democracy in legal politics is the Basic Agrarian Law (UUPA) of 1960. UUPA reflects an effort to replace colonial agrarian law with laws that are more in line with Pancasila values, such as social justice and economic equality. In addition, the formation of laws during the Pancasila democracy era was also influenced by the principle of deliberation, where the legislative process involved various parties to reach consensus.

However, the implementation of Pancasila democracy has not always run smoothly. During the Old Order, Pancasila democracy was often used as a tool to legitimize executive power. This can be seen from the president's dominance over legislative and judicial institutions, as well as restrictions on political freedom and human rights. From a legal political perspective, this condition shows the tension between the ideal values of Pancasila and pragmatic political reality.

The main difference between legal politics during the liberal democracy and Pancasila democracy era lies in the orientation and approach in the formation of law. During the liberal democracy era, law is oriented towards the protection of individual rights and the supremacy of law, with a legalistic approach that tends to be formalistic. In contrast, during the Pancasila democracy era, law is oriented towards social justice and harmony, with a more contextual and inclusive approach.

However, this transformation also has some negative consequences. For example, Pancasila democracy is often interpreted unilaterally by the government to justify authoritarian actions. This shows that although Pancasila democracy has a strong philosophical foundation, its implementation often depends on the interpretation and political interests of the rulers.

The transformation from liberal democracy to Pancasila democracy has significant implications for contemporary legal politics in Indonesia. One of them is the influence of Pancasila values in the formation of national law, as reflected in various laws and public policies. In addition, this transformation also provides a basis for the development of a more inclusive and equitable legal system.

However, major challenges remain, especially in maintaining consistency between the values of Pancasila and the implementation of legal politics. For example, the politicization of law and weak law enforcement are still major problems in the Indonesian legal system. This condition shows that the transformation of legal politics is not only about changing the system, but also about building a legal culture that is in accordance with the values of Pancasila.

The transformation from liberal democracy to Pancasila democracy is one of the important events in the history of legal politics in Indonesia. This transformation reflects an effort to create a legal system that is more in line with the personality of the nation and the needs of society. Despite facing various challenges, this

transformation also provides opportunities to strengthen the integration between law, politics, and local cultural values. In the context of contemporary legal politics, Pancasila democracy remains relevant as a foundation for building an inclusive, just, and sustainable legal system.

## **B. Challenges and opportunities in implementing legal politics based on Pancasila democracy today**

The implementation of Pancasila democracy-based legal politics today is faced with a number of challenges and opportunities that influence each other. As a state ideology, Pancasila contains fundamental values such as social justice, deliberation for consensus, and mutual cooperation which are the basis for the formation and implementation of law. However, in practice, modern political, social, and economic dynamics often create complexity in realizing these principles. To understand this context in depth, a critical legal analysis of the existing challenges and opportunities is needed. (Concerned 2014)

Although Pancasila democracy has a strong philosophical foundation, its implementation in legal politics is not free from various obstacles. These challenges include institutional, social, and legal cultural aspects that still need to be strengthened.

### **a. Politicization of Law**

One of the main challenges is the politicization of law, where the law is often used as a tool to achieve certain political interests. This phenomenon is contrary to the principles of social justice and the supremacy of law upheld by Pancasila democracy. For example, cases of inconsistent or discriminatory law enforcement against certain groups indicate political intervention in the legal process.

The politicization of law undermines public trust in the legal system and creates inequality in access to justice. This not only violates the principles of Pancasila democracy, but also hampers efforts to build an inclusive and just legal culture.

### **b. Social and Economic Disparities**

Social justice is one of the main pillars of Pancasila democracy. However, in reality, social and economic inequality is still a major problem in Indonesia. This inequality affects the implementation of the law, where the less fortunate often have difficulty accessing justice. For example,



high court costs and lack of legal aid for vulnerable groups are obstacles to realizing social justice.

This gap also creates inequality in the implementation of law at the local level. In some cases, the law favors groups with greater economic and political resources, thus violating the principles of justice upheld by Pancasila.

c. Weak Legal Culture

The weak legal culture in Indonesia is also a significant challenge. Many people do not fully understand their legal rights and obligations, making it difficult to create active participation in the legal process. In addition, weak law enforcement, such as corruption in the judiciary and law enforcement officers, makes the situation worse.

In the context of Pancasila democracy, a weak legal culture shows that values such as mutual cooperation and deliberation have not been fully internalized in legal practice. This requires more intensive legal education and reform efforts.

Despite facing various challenges, Pancasila democracy also offers great opportunities to build a more inclusive and just legal system. These opportunities can be utilized to strengthen the foundation of national legal politics.

a. Integration of Pancasila Values in Legislation

Pancasila as the state ideology provides a rich value framework for forming laws that better suit the needs of Indonesian society. For example, the principle of social justice can be integrated into laws that regulate the redistribution of resources, such as land laws and social protection.

In addition, the principle of deliberation and mutual cooperation can be the basis for the formation of more inclusive legal policies. Legislative processes that involve public participation, such as public consultation and deliberation with various stakeholders, can strengthen legal legitimacy and increase public trust.

b. Strengthening Legal Institutions and Democracy

The reform era opens up opportunities to strengthen legal and democratic institutions in Indonesia. For example, the existence of the Constitutional Court as the guardian of the constitution provides space to ensure that the laws produced are in

accordance with the values of Pancasila. In addition, the Corruption Eradication Commission (KPK) also plays an important role in guarding the integrity of law enforcement institutions.

Pancasila Democracy also provides an opportunity to strengthen checks and balances in the political system, so that power is not centralized in one institution or individual. In the context of legal politics, this means that there is greater space to ensure the supremacy of law and the protection of human rights.

c. Digital-Based Legal Reform

Advances in digital technology provide new opportunities to increase transparency and accountability in the legal system. For example, digitizing the judicial process can facilitate public access to legal information and increase efficiency in resolving cases. This is in line with the principle of social justice upheld by Pancasila democracy.

In addition, the use of technology in legislation, such as online public consultation platforms, allows the public to participate more actively in the process of law-making. Thus, Pancasila democratic values such as deliberation and mutual cooperation can be applied more widely in the digital era.(Aspan et al. 2023)

To overcome challenges and take advantage of opportunities in the implementation of Pancasila democracy-based legal politics, a comprehensive and sustainable strategy is needed. Some strategies that can be carried out include:

- Legal Education: Increasing public awareness of their legal rights and obligations through legal education programs integrated into the national education system.
- Legal Institution Reform: Strengthening the integrity and capacity of law enforcement institutions, including through eradicating corruption and increasing the professionalism of law enforcement officers.
- Public Participation: Encourage public participation in the legislative process and supervision of the implementation of the law, so that the values of Pancasila can be reflected in real terms in legal politics.
- Leveraging Digital Technology: Integrating technology into the legal

system to increase transparency, accountability and efficiency.

The implementation of legal politics based on Pancasila democracy today faces complex challenges, such as the politicization of law, social inequality, and a weak legal culture. However, on the other hand, Pancasila democracy also offers great opportunities to build a more inclusive and just legal system. With the right strategy, Pancasila values can be integrated more effectively into national legal politics, thus creating a solid foundation for sustainable legal development.

#### IV. CONCLUSIONS AND RECOMMENDATIONS

The transformation of legal politics from liberal democracy to Pancasila democracy reflects the efforts of the Indonesian people to find a legal system that is in accordance with the personality and values of local culture. Pancasila democracy, with the principles of social justice, deliberation, and mutual cooperation, is the basis for the formation of laws that are oriented towards the interests of the wider community. However, its implementation is not free from challenges, such as the politicization of law, social inequality, and weak legal culture, which often hinder the consistent implementation of Pancasila values in the national legal system.

On the other hand, Pancasila democracy offers a great opportunity to strengthen an inclusive and just legal system, through the integration of Pancasila values in legislation, strengthening legal institutions, and utilizing digital technology. With the right strategy, these challenges can be overcome and opportunities utilized to create a transparent, accountable, and social justice-oriented legal system, so that Pancasila democracy remains relevant in building the future of Indonesian legal politics.

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