




# The Renewal of National Criminal Law: An Analysis of the Pancasila Law Philosophy

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## Abstract

**Introduction:** Reform of criminal law is an important aspect in organizing the politics of criminal law so that it can meet the legal needs of society. The legal philosophy of Pancasila occupies an important position in efforts to reform criminal law.

**Purposes of the Research:** Reflection on criminal law renewal in terms of the legal philosophy of Pancasila.

**Methods of the Research:** Normative legal research with conceptual, statutory and philosophical approaches.

**Results of the Research:** The legal philosophy of Pancasila has relevance in relation to the reform of criminal law, including that the philosophy of Pancasila law can be a guide as well as a guide in both normative aspects and the practice of criminal law reform. In addition, the legal philosophy of Pancasila can also direct the orientation of criminal law reform in order to improve five important aspects of criminal law reform, namely aspects of legal substance, culture, structure, leadership, and the professionalism of law enforcement officials. The reading of Pancasila values in a hierarchical-pyramidal manner is important as a guide and direction for a criminal law reform process. Pancasila's legal philosophy has also become a norm of criticism in criminal law reform, namely providing criticism of norms and legal behavior of criminal law reform whether it is in accordance with Pancasila values or not.

## 1. INTRODUCTION

The reform of criminal law in Indonesia has actually revealed its direction and orientation which places Pancasila and the nation's noble values as its guide. Criminal law reform that places Pancasila values specifically has a plus point, namely that criminal law reform can work properly to provide the value of justice for society. On the other hand, criminal law reform which emphasizes the values of Pancasila as its guide is also intended so that the substance and law enforcement as an implication of criminal law reform can run optimally as well as be in line with the legal values and culture that develop in society.<sup>1</sup> The

<sup>1</sup> Magnis Florencia Butar-butur, "Exemptions from Liability in Indonesian Criminal Law Reform," *Annals of R.S.C.B* 25, no. 5 (2021): 5528-33.

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reform of Indonesia's criminal law is actually carried out in a scattered and partial manner.<sup>2</sup> It is widely intended that criminal law reform in Indonesia is carried out based on each aspect that is not necessarily the progress of one aspect balanced and supported by the development of other aspects. This can be seen in the aspect of the substance of criminal law reform, for example with the promulgation of Law No. 1 of 2023 (New Criminal Code) which replaces the Old Criminal Code. Although in substance there has been a formulation of the New Criminal Code, the reform of criminal law is actually not only enough to reformulate by formulating a New Criminal Code. Criminal law reform must be carried out comprehensively by emphasizing five aspects, namely: substance, structure, culture, professionalism, and leadership spirit.<sup>3</sup>

The importance of the five aspects in criminal law reform above must also pay attention to the philosophical dimension of criminal law reform. Although criminal law reform emphasizes praxis, an understanding of the philosophical dimension is important as a means of giving the criminal law a firm and intellectual foothold. In this context, aspects of Pancasila's legal philosophy become interesting as part of an effort to reflect on the reform of existing criminal law. The excavation of the legal philosophy of Pancasila is important because as the basis of the state, Pancasila was originally put forward by Sukarno in his 1 June speech as a *philosophische grondslag*. So that an understanding of views on the legal philosophy of Pancasila is important, especially in the reform of criminal law.<sup>4</sup> The main purpose of this study is to reflect on criminal law reform in terms of aspects of Pancasila legal philosophy.

Research on criminal law reform is a research that has been widely conducted by researchers and legal academics. One of the momentum for the review of criminal law reform is after the passing of the New Criminal Code. Even so, research on criminal law reform that is reviewed and reflected using the Pancasila legal philosophy is research that has never been done because research on criminal law reform tends to be carried out on the dogmatic-praxis dimension and is rarely analyzed abstractively-philosophically. Various previous studies on criminal law reform as conducted by Sukma (2021), which as well as mainstream research in criminal law reform always focus on revising the Criminal Code. The novelty of this study is that the legal needs of the community must be inventoried as well as being an important aspect in guiding the implementation of criminal law reform.<sup>5</sup>

Broader reasoning regarding criminal law reform is carried out by Khaizar (2022) who sees that material and formal criminal law reform is the main pillar and basis for criminal law reform. The novelty of Khaizar (2022) research takes an important position that in criminal law reform, material and formal criminal law occupy an important position to be

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<sup>2</sup> RS Assegaf, "Sentencing Guidance in the Indonesia's Criminal Code Reform Bill: For Whose Benefit?," *Australian Journal of Asian Law* 19, no. 1 (2018): 87-104, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3239777](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3239777).

<sup>3</sup> Esmaeil Rahiminejad, "Iranian Criminal Justice System from the Perspective of Restorative Justice Models," *Scholars International Journal of Law, Crime and Justice* 5, no. 10 (2022): 468-76, <https://doi.org/10.36348/sijlcj.2022.v05i10.010>.

<sup>4</sup> E Fernando M Manullang, "Mempertanyakan Pancasila Sebagai Grundnorm: Suatu Refleksi Kritis Dalam Perspektif Fondasionalisme," *Hukum* 50, no. 2 (2020): 284-301.

<sup>5</sup> Dara Pustaka Sukma, "Pembaharuan Hukum Pidana Dalam Menghadapi Perkembangan Masyarakat," *New Ratu Adil Unsa* 5, no. 2 (2021): 210, <https://journalfhunsa.com.index.php/newratuadilunsa>.

updated hostically.<sup>6</sup> Slightly different from the previous two studies, Lesmana (2023) actually tried to see the application of the Economic Anlysis of Law (EAL) theory in criminal law reform. The novelty of Lesmana's (2023) research emphasizes that the ineffectiveness of criminal law enforcement practices is due to the fact that so far the EAL perspective has rarely been used as a guideline by law enforcement officials.<sup>7</sup> Therefore, future criminal law reforms need to pay attention to the EAL aspect. From the three previous studies, it can be seen that this research has not been psychologically studied by the three researchers above, so the originality of this research can be accounted for.

## 2. METHOD

As a research that examines criminal law reform, this research departs from an analysis related to theories, concepts, and laws and regulations regarding criminal law reform so that it is a normative legal research.<sup>8</sup> Because it examines aspects of Pancasila legal philosophy, this research approach uses a philosophical approach equipped with a concept and legislation approach. The primary legal materials used in this study were the 1945 NRI Constitution and the New Criminal Code. Secondary legal materials use journal articles and books as primary materials, plus websites and proceedings that discuss criminal law reform. Non-legal material is a language dictionary that aims to provide enlightenment on the understanding of a term in linguistic aspects.

## 3. RESULTS AND DISCUSSION

### 3.1 The Relevance of Pancasila Legal Philosophy in Criminal Law Reform

The development of law in the field of criminal law actually experiences two interrelated aspects, namely in the aspect of legal globalization and legal locality.<sup>9</sup> The globalization aspect of law emphasizes that in the field of criminal law, a legal update carried out by a country must see, refer to, and relate to the development of global law. Just as a human being cannot live without the help of others, so can a country that cannot live and develop on its own without establishing relations with other countries. The development of criminal law also requires every country to adopt and follow the development of criminal law globally. One aspect of the development of criminal law that must see the development of global law such as the development of law in human rights aspects to the development of legal ideas and practices in civilized countries which is usually followed by the existence of international legal customs that are recognized and facilitated.<sup>10</sup>

The development of criminal law in addition to looking at global aspects must also refer to the development of aspects of community locality. If the globalization aspect of law related to criminal law reform seeks to see criminal law developing in other countries, then

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<sup>6</sup> Moh Al-vian Zul Khaizar, "Analisis Pembaharuan Hukum Pidana Dan Hukum Acara Pidana Dalam Undang- Undang Tindak Pidana Kekerasan Seksual," *Diktum* 10, no. 1 (2022): 103-17, <https://doi.org/10.24905/diktum.v10i1.204>.

<sup>7</sup> CSA Teddy Lesmana, "Implementasi Economic Analysis of Law Dalam Pembaharuan Hukum Pidana Indonesia," *Jurnal Pendidikan Dan Konseling* 5, no. 1 (2023): 1349-58.

<sup>8</sup> J. Ibrahim J. Efendi, *Metode Penelitian Hukum Normatif Dan Empiris* (Jakarta: Kencana, 2016).

<sup>9</sup> Stefan Koos, "Digital Globalization and Law," *Lex Scientia Law Review* 6, no. 1 (2022): 33-68, <https://doi.org/10.15294/lesrev.v6i1.55092>.

<sup>10</sup> Shuaib Chalklen Hisayo Katsui, *Disability, Globalization and Human Rights* (London: Taylor & Francis, 2020).

the locality aspect seeks to absorb, facilitate, and empower various aspects that influence criminal law reform. The practice of criminal law in locality has actually been carried out by the community such as the existence of customary norms, customary sanctions, to local law enforcement apparatuses whose functions are to enforce existing norms and sanctions.<sup>11</sup> The development of criminal law that is trying to respond with criminal law reform seeks to facilitate aspects of globalization and legal locality in a balanced and proportional manner.

Aspects of globalization and legal locality as an effort to build progressive national criminal law reform, on the other hand, have the advantage that by adopting aspects of globalization and legal locality, criminal law reform will take place conducive and have relevance, namely following the development of existing laws while still facilitating the development of applicable laws in society. Even so, aspects of globalization and legal locality on the other hand also pose problems in the form of competition between globalization and legal locality. Instead of being oriented to build and sustain criminal law reform, The competition aspect between globalization and legal locality is mutually negative (*vis a vis*) so that it is not harmony between globalization and legal locality but what happens is competition between the globalization aspect and legal locality.<sup>12</sup>

Competition between globalization and legal locality can cause at least three negative impacts in criminal law reform, namely: first, competition between globalization and legal locality actually increasingly corners aspects of criminal law reform because it leans towards one aspect, Therefore, criminal law reform has the potential to create a gap between internationalization and nationalization of criminal law. Criminal law reform with the competition between globalization and legal locality will actually be skewed towards one aspect, namely whether in the aspect of internationalization or nationalization of criminal law whose orientation is equally detrimental to society as the party that carries out the substance of criminal law reform. Second, the competition between globalization and the locality of law has the potential to obscure the values and legal ideals of a country to be realized. The legal ideal of a country in general has an accommodating character, that is, it facilitates proportionally the demands of globalization and the locality of law simultaneously. With the competition between globalization and legal locality, criminal law reform will be divided into two, namely on the one hand more internationalization character, namely paying attention to the development of global law or more locality character which is only based on the wishes of the community who implement the law that applies in the community consistently. The competition between globalization and the locality of the law, makes the legal ideal of a country will not be optimal to be used as a guide and guide for a criminal law reform.

Third, competition between globalization and legal locality can also substantively have a major impact on society such as the globalization of criminal law which confirms the existence of new technology-based criminal acts.<sup>13</sup> If it only facilitates the locality aspect of the law, of course, new technology-based criminal acts will increasingly go unnoticed and regulated in the process of legal reform. The same can happen the other way around, namely

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<sup>11</sup> Nella Sumika Putri, "The Material Content Of Regional Regulations As The Concretization Of The Living Legal System In Society (Adat Law) Based On Article 2 Of The Indonesian Penal Code (Kuhp) 2023," *Bina Mulia Hukum* 7, no. 2 (2023): 15-16.

<sup>12</sup> Gomgom TP Siregar and Sarman Sinaga, "The Law Globalization in Cybercrime Prevention," *International Journal of Law Reconstruction* 5, no. 2 (2021): 211, <https://doi.org/10.26532/ijlr.v5i2.17514>.

<sup>13</sup> Nori Katagiri, "Why International Law and Norms Do Little in Preventing Non-State Cyber Attacks," *Journal of Cybersecurity* 7, no. 1 (February 2021): 1-9, <https://doi.org/10.1093/cybsec/tyab009>.

when only focusing on aspects of globalization or internationalization of criminal law, the potential is the non-facilitation of local legal aspirations of the community that existed before Indonesia became independent. From the three impacts above, please note that with the potential for disharmony between aspects of globalization and legal locality, it can aggravate the process of legal reform which actually becomes a legal intermingling between globalization and legal locality which can have a negative impact on criminal law reform.

The importance of efforts to pay attention to aspects of globalization and legal locality in the context of criminal law reform should be constructed proportionally. Both the globalization aspect and the locality of law in the process of criminal law reform are something equally important. In the context of Indonesian criminal law reform, aspects of legal globalization are very important to adopt various relevant legal thoughts and practices in the 21st century such as the idea of restorative justice, the application of retributive theory, to efforts to abolish the death penalty as part of strengthening the existence of human rights.<sup>14</sup> From the aspect of legal locality, the reform of Indonesian criminal law is also obliged to regulate and facilitate various "people's laws" that are still alive and applied by the community, such as: customary law practices and various arrangements regarding "distinctive" norms that develop in Indonesian society such as criminal sanctions for someone or parties who claim to have supernatural powers in the form of witchcraft and then harm others.

Criminal law reform should ideally accommodate aspects of globalization and legal locality simultaneously. This effort to accommodate aspects of globalization and legal locality simultaneously requires the role of Pancasila legal philosophy as an important orientation in criminal law reform. The legal philosophy of Pancasila as its nomenclature, certainly emphasizes the aspect of "philosophy" which looks abstractively at the process of criminal law reform. The abstractive aspect in philosophy cannot be understood as a process of "freewashing", but is a process of thinking from the most abstract to the most concrete and technical.<sup>15</sup> The aspect of Pancasila legal philosophy seeks to conduct an in-depth study and analysis on the renewal of Pancasila law to then be reflected by Pancasila values. By referring to aspects of Pancasila legal philosophy, criminal law reform is expected to be carried out and run in accordance with the values of Pancasila so that if applied in accordance with the characteristics of Indonesian society.

In addition to the above aspects, the philosophy of Pancasila law is actually important in the reform of criminal law in three aspects, namely: first, the philosophy of Pancasila law at the level of philosophy actually has an orientation to direct a legal reform, especially the renewal of criminal law to adjust to the value and substance in criminal law. At this philosophical level, Kaelan emphasized that as a value system, Pancasila is not positively crystallized into legal norms, but is still in the form of values that are then directed positively in the form of positive legal norms.<sup>16</sup> From Kaelan's view above, Pancasila is a philosophical basis that guides the values of legal reform to be in line with the values of Pancasila. Second, the legal philosophy of Pancasila at the conceptual or theoretical level also has a concept or theory orientation that has relevance to the value of Pancasila in criminal law reform. Concepts or theories in criminal law reform that have relevance to the value of Pancasila

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<sup>14</sup> Robert Leider, "The Modern Common Law of Crime," *Journal of Criminal Law and Criminology* 111, no. 2 (2021): 412-13.

<sup>15</sup> Amran Suadi, *Filsafat Hukum Refleksi Filsafat Pancasila* (Jakarta: Prenada Media, 2019).

<sup>16</sup> Ali Dahwir, "Pengembangan Filsafat Pancasila Dalam Sistem Pidana Di Indonesia," *Solusi* 17, no. 1 (2019): 13-22.

include such as: retributive theory in punishment which emphasizes that criminal actors in criminal accountability efforts must be able to recover the impact of criminal acts committed and the concept of restorative justice, which is a concept that emphasizes the urgency of recovering victims and restoring the mentality of criminal offenders so as not to repeat their actions.<sup>17</sup>

Actually, in addition to these two concepts or theories, there are still many other concepts or theories that are in accordance with the value of Pancasila. The two theories or concepts above can be an example that in the process of criminal law reform there are important theories or concepts to guide in which direction the process of criminal law reform is carried out. Third, the legal philosophy of Pancasila at the level of praxis serves as a guiding tool so that in practice criminal law reform can be coherent with the ideals of criminal law reform. This aspect of praxis is related to how criminal law reform is carried out or (criminal reform in action) in which in this context the values of Pancasila serve as a guide for the application of criminal law reform practices.<sup>18</sup> From the three aspects above, it can be concluded that the importance of Pancasila legal philosophy in criminal law reform is actually not only in the aspect of formulating norms in criminal law reform, but also included in the practical aspect of implementing criminal law reform where these Pancasila values become the guiding and guiding values of a criminal law reform practice.

The importance of Pancasila legal philosophy in efforts to reform criminal law is actually in line with the views of Achmad Ali who perfected the theory of the legal system as stated by Lawrence M. Friedman who emphasized that a legal system will function and run well if five aspects are fulfilled, namely<sup>19</sup>: legal culture, legal substance, legal structure, leadership, and professionalism of law enforcement. The importance of Pancasila legal philosophy is in order to make improvements to criminal law reform so that the five aspects above can be fulfilled. In the aspect of legal culture, the legal philosophy of Pancasila guides the reform of criminal law to be in harmony with the legal culture of society. The legal culture of society has actually been crystallized in the five values of Pancasila. In the aspect of legal substantiation, the legal philosophy of Pancasila seeks to guide the substance of criminal law reform so that the substance regulated is the substance needed by the community. This is an evaluation of the Previous Criminal Code where there are several regulatory substances that are not in accordance with the values of Pancasila, such as the regulation of zina where zina in the Previous Criminal Code is not in accordance with the values of Pancasila that grow and develop in society.<sup>20</sup>

In the aspect of legal structure, the problems of law enforcement that have occurred so far are expected to be directed with precision by the Pancasila legal philosophy by promoting a more humanistic approach. Law enforcement officials in Indonesia such as the Police and Prosecutor's Office are still systematized with a militaristic approach that

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<sup>17</sup> Syamsul Fatoni Imron Rosyadi, "Pemidanaan Terhadap Pelaku Kekerasan Seksual Dalam Perspektif Sistem Peradilan Pidana Kajian Putusan Nomor 989/Pid.Sus/2021/Pn.Bdg," *Yudisial* 15, no. 3 (2023): 337-59, <https://doi.org/10.29123/jy.v15i3.540>.

<sup>18</sup> Cucuk Endratno, "Refleksi Filsafat Hukum: Telaah Sintesa Keadilan," *Yustitiabelen* 8, no. 2 (2022): 97-117, <https://doi.org/10.36563/yustitiabelen.v8i2.555>.

<sup>19</sup> Achmad Ali, *Menguak Tabir Hukum*, 2nd ed. (Jakarta: Kencana, 2017).

<sup>20</sup> Muhammad Yasin, "Penjelasan Kembali Tentang Pasal Zina Dalam KUHP" ([www.hukumonline.com](http://www.hukumonline.com), 2022), <https://www.hukumonline.com/stories/article/lt61f7e0ceb33/penjelasan-kembali-tentang-pasal-zina-dalam-kuhp> (Diakses Pada Tanggal 2 Januari 2023).

separates law enforcement and human values. This is as stated by Fachrizal Afandi that the reality and structure of the Prosecutor's Office in Indonesia which tends to use a command system has the potential to cause problems when the Attorney General is controlled or gets "orders" in certain cases.<sup>21</sup> With this phenomenon, Pancasila legal philosophy seeks to overhaul and break various existing phenomena so that the legal structure in the form of law enforcement officers can be the front line in implementing the values of Pancasila.

In the leadership aspect, the leadership values of law enforcement institutions need to be improved so that leaders can set an example and be an example for other law enforcement officials. This phenomenon can be seen from the various realities of a Supreme Court judge who was caught by the KPK with indications of corruption. This also happens with the existence of unscrupulous prosecutors who do not show leadership like Jaksa Pinangki who actually set a bad example for prosecutors in Indonesia. In this context, the legal philosophy of Pancasila seeks to direct aspects of leadership into Pancasila leadership, namely leaders who can be role models and examples for all. In the professional aspect, the role of professional ethical norms is an important aspect for law enforcement officials. The professional ethical norms of law enforcement officers, commonly referred to as this code of ethics, need to be the main focus in realizing optimal legal reform. Based on the analysis above, the legal philosophy of Pancasila has relevance related to criminal law reform, including that the philosophy of Pancasila law can be a guide and guide both in normative aspects to the practice of criminal law reform. In addition, the legal philosophy of Pancasila can also direct the orientation of criminal law reform to be able to improve five important aspects of criminal law reform, namely aspects of legal susbtansi, culture, structure, leadership, and professionalism of law enforcement officers.

### 3.2 The Pancasila Legal Philosophy: Guide and Examiner of Criminal Law Reform

The legal philosophy of Pancasila in Kaelan's view actually focuses more on a character full of values and not a normative character as legal norms.<sup>22</sup> Because it does not have a normative character as legal norms, the values of Pancasila in the philosophy of law must be crystallized in the form of legal norms. The process of formulating Pancasila values into legal norms is the three main pillars of Pancasila legal philosophy to guide so that the substance of Pancasila values remains relevant when formulated in legal norms. Kaelan also emphasized that the values of Pancasila actually have an ethical dimension by nature compared to the juridical dimension.<sup>23</sup> In this ethical dimension, the legal philosophy of Pancasila emphasizes the moral dimension so that definite efforts are needed so that the moral aspects of Pancasila can be legally realized. The view that emphasizes the value of Pancasila as an ethical value above also has relevance related to the view that Pancasila actually has two aspects, namely written and unwritten.<sup>24</sup> The written aspect of Pancasila is the formulation of Pancasila as stated in the Preamble of the 1945 NRI Constitution as ratified on August 18, 1945. The formulation of Pancasila ratified in the Preamble of the 1945

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<sup>21</sup> Fachrizal Afandi, "Maintaining Order: Public Prosecutors in Post-Authoritarian Countries, the Case of Indonesia" (Leiden: Universiteit Leiden, 2021).

<sup>22</sup> Teguh Prasetyo and Tri Astuti Handayani, "Theory of Dignified Justice as A Legal Foundation of Law Reform in Indonesia," *Surakarta Law and Society Journal* 1, no. 1 (2018): 46-54.

<sup>23</sup> I Dewa Gede Atmadja, "Legal Ideology on Social Justice Perspective," *Journal Equity of Law and Governance* 1, no. 2 (2021): 158-63, <https://doi.org/10.55637/elg.1.2.4345.158-163>.

<sup>24</sup> Shidarta Shidarta, "Bernard Arief Sidharta: Dari Pengembangan Hukum Teoretis Ke Pembentukan Ilmu Hukum Nasional Indonesia," *Undang: Jurnal Hukum* 3, no. 2 (December 2020): 441-76, <https://doi.org/10.22437/ujh.3.2.441-476>.

NRI Constitution is a formulation that has a juridical dimension, so it is referred to as the "official" formulation of Pancasila. Even so, the study of values, especially through reflection on the legal philosophy of Pancasila, cannot stop at the juridical aspects of Pancasila. The study of legal philosophy should be a meta-juridical study, namely the study of Pancasila that transcends its juridical dimension.

The study of Pancasila that goes beyond its juridical aspect is what places the study of the legal philosophy of Pancasila as a study that places aspects of Pancasila unwritten. This unwritten Pancasila is often referred to as the values of Pancasila. The values of Pancasila are actually not written because these values are imprinted in the hearts of the Indonesian people as well as contained in the practice of Indonesian people's lives. In this unwritten Pancasila, the moral, ethical, and religious dimensions of Pancasila are more visible so that the tangible Pancasila and in the form of this value does not dwell on the normative aspects of Pancasila, but rather emphasizing ethically how Pancasila can be applied in various aspects of life in society. The study of Pancasila legal philosophy actually examines two things at once, namely Pancasila as a value or unwritten and Pancasila which is written as part of the Preamble to the 1945 NRI Constitution. Pancasila as a value or unwritten is a guide or guide for various aspects within the country, including efforts to reform the law. Pancasila in writing as part of the Preamble to the 1945 NRI Constitution is the examiner or as a norm of criticism of the application of criminal law reform.

Reform of criminal law with reference to the position of Pancasila values as a guide, the important orientation is how to position a comprehensive understanding of Pancasila values. Yudi Latif, for example, illustrates that laterally, the five values in Pancasila are the five values which, if read lexically, are different values and can even conflict with each other.<sup>25</sup> This can be exemplified, for example, between the human value in the second precept and the value of Indonesian unity in the third precept, which lexically contradict each other. Human values emphasize that the dimension of nationality must be a derivative of humanity which means that humanity must be upheld above national values. Even so, if read lexically as well, this national value can also nullify human values, for example in the name of the state and nation someone in an effort to defend the country can kill others in the context of war, for example. The example of the difference in perception above is a simple example that reading Pancasila as a value cannot be done textually and lexically, but must be read critically and substantively so that these five values are five values that are interrelated in one unity.

Substantive reading of the value of Pancasila can be done as Notonagoro views who read Pancasila hierarchically-pyramidally. Notonagoro believes that these five values of Pancasila are abstractively formulated hierarchically with two main characters, namely one value being the basis of another value and each value must be understood in order to be a whole.<sup>26</sup> Notonagoro's view can be specifically oriented that reading the value of Pancasila hierarchically-pyramidally is reading Pancasila which bases the value of divinity as the main value for the essence of other values. The value of divinity in this case as a *causa prima* so that the value of divinity becomes the basis for other values. This understanding of divine value in Pancasila cannot be equated with a narrow understanding of divine value, But divine values are universally encompassing various religious values and beliefs. The

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<sup>25</sup> Yudi Latif, *Negara Paripurna: Historisitas, Rasionalitas, Dan Aktualitas*, 5th ed. (Jakarta: Gramedia, 2015).

<sup>26</sup> Dinie Anggtaeni Dewi Fannia Sulistiani Putri, "Implementasi Pancasila Sebagai Sistem Etika," *EduPsyCouns: Journal of Education, Psychology and Counseling* 3, no. 1 (2021): 178.



reading of the values of Pancasila in a hierarchical-pyramidal manner can simply be read holistically that applying the values of Pancasila is trying to apply the values of divinity, humanity, unity, peoplehood, and justice at the same time. Not applying just one of the values can be said to be an effort to "separatist Pancasila", namely compartmentalizing Pancasila values which are actually irrelevant in guiding various aspects of nation and state.

The hierarchical-pyramidal reading of Pancasila above, in the context of guiding criminal law reform, it can be understood that in an effort to formulate and formulate a criminal law reform, the five values of Pancasila must be used as a guide for the direction and orientation of criminal law reform in the future. If one value in Pancasila is not facilitated, then it can be said that the hierarchical-pyramidal reading of Pancasila has not been fulfilled in criminal law reform. Apart from being a guide, the value of Pancasila can also act as a tester for criminal law reform. As an examiner of criminal law reform, Pancasila is not attached as a value, but as a basic norm contained in the Preamble to the 1945 NRI Constitution. As an examiner of criminal law reform, Pancasila can be placed on two aspects, namely examiner of legal norms of criminal law reform or as an examiner of community behavior and law enforcement officials in criminal law reform. Pancasila as an examiner of legal norms for criminal law reform is related to the role of community participation in conducting judicial review of potential criminal law norms after criminal law reform which is contrary to the values of Pancasila. The value of Pancasila is then constructed with constitutional articles to then be used as a touchstone in criminal law reform. As an examiner of community behavior and law enforcement officials after criminal law reform, This Pancasila value becomes a "norm of criticism" and an evaluation material for whether a criminal law reform is in accordance with the value of Pancasila or not. The results of the evaluation are then reformulated through a legal policy so that criminal law reform can be in line with the values of Pancasila.

#### 4. CONCLUSION

Pancasila legal philosophy has relevance related to criminal law reform, including that Pancasila legal philosophy can be a director and guide both in normative aspects to the practice of criminal law reform. In addition, the legal philosophy of Pancasila can also direct the orientation of criminal law reform to be able to improve five important aspects of criminal law reform, namely aspects of legal susbtansi, culture, structure, leadership, and professionalism of law enforcement officers. The legal philosophy of Pancasila as a guide for criminal law reform emphasizes aspects of values so that it is based on the reading of Pancasila values in a hierarchical-pyramidal manner. This hierarchical-pyramidal reading of the value of Pancasila is important as a guide and direction for a process of criminal law reform. The legal philosophy of Pancasila as an examiner of a criminal law reform emphasizes the position of Pancasila as part of the Preamble to the 1945 NRI Constitution which is oriented towards critical norms, namely norms that provide criticism for legal norms and behavior, criminal law reform whether it is in accordance with the values of Pancasila or not.

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