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# Transformation of Prophetic Law in Pancasila Values Viewed from the Wadas Village Conflict

Adam Setiawan<sup>1</sup>

<sup>1</sup>Doctoral Program of Law, Islamic University of Indonesia, Indonesia. E-mail: adam@untag-smd.ac.id

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## Abstract

The conflict that occurred in Wadas Village shows that the government uses a power approach and repressive measures. This is in line with the perspective of legal positivism. Therefore, legal positivism has been judged to be incompatible with legal developments in Indonesia, giving rise to new perspectives, one of which is prophetic law. The purpose of the reaserch was to determine the extent of the transformation of professional law contained in Pancasila and to find out in the development of law in Indonesia by looking at the cases that occurred in Wadas Village. This research used narrative qualitative type, in the form of stories, events, written and unwritten documents. The results of the study show that the essence of prophetic law is to make religious values an important part in building civilization. Prophetic law refers to the will of Allah SWT which was revealed through the Prophets and Rasul, the Mualim and Aulia who are always istiqomah and hold fast to the ilahiyah line or sunnatullah. The prophetic legal foundation in Pancasila, Pancasila is the objectification of Islam in Indonesia. This means that Islam is its objective form in the crystallization of Pancasila thought. In the context of the Wadas Village conflict, the government uses a professional paradigm that prioritizes the interests of the community and uses a persuasive approach that leads to common interests, in order to know the will of the residents with the aim of making joint decisions without the interests of the Wadas Village residents.

**Keywords:** *Pancasila; Prophetic Law; Wadas Village*

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## INTRODUCTION

Recent repressive acts carried out by the apparatus (a mix of the TNI and the Police) in Wadas Village have invigorated the Indonesian public, as seen by multiple violent films circulating on social media. According to the government, around sixty (sixty) residents were arrested as a result of this occurrence, leading to the emergence of social media hashtags such as #SaveWadas, #WadasMelawan, and #WadasTolakTambang.<sup>1</sup>

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<sup>1</sup> Kompas, Awal Mula Warga Wadas Melawan, Tolak Tambang untuk Proyek Bendungan Bener, <https://nasional.kompas.com/read/2022/02/09/17020441/awal-mula-warga-wadas-melawan-tolak-tambang-batu-andesit-untuk-proyek?page=all>

The project plan for the construction of the Bener Dam in Wadas Village, Purworejo Regency, initially sparked tension between the authorities and locals. The plan to construct the Bener Dam is one of the National Strategic Projects (PSN) that will provide water to the Yogyakarta Airport in the Kulon Progo Regency; this project requires the supply of andesite stone for construction. It is believed that the andesite mining area covers 145 (one hundred and forty five) hectares. As a result, the government took measures to open an andesite stone mine in Wadas Village. The opposition is based on the impact of andesite mining, which is anticipated to harm agricultural land in the future, as it is well-known that the majority of the population' livelihoods depend on agricultural land.<sup>2</sup>

The government as a state administrator appears to have lost a sense of crisis, as indicated by the manner in which it addresses field problems, especially through the use of a power-based strategy and coercive tactics. This reflects the legal positivism viewpoint. The implication of the legal positivism perspective is that the law has the capacity to serve the interests of authority and oppress the people, hence provoking conflict between the rulers and the governed. Conflicts between the rulers and the people have the potential to spark a revolution on a certain magnitude.<sup>3</sup> In addition, legal positivism establishes a line of demarcation and rejection of things outside the law, such as religiousness.<sup>4</sup> In the world of law enforcement, the implications of failing to accept the aspect of religiosity will be harmful and deceptive.

Today, the paradigm of legal positivism is beginning to deteriorate since it is no longer regarded consistent with the times; thus, various other paradigms, including prophetic law, have emerged to replace legal positivism. In simple terms, prophetic law can be seen as the foundation of knowledge; there are intuitive (faith) or a priori instructions, because intuitive knowledge begins with human receptivity to what is conferred by revelation and direction, thereby rejecting the concept of doubt.<sup>5</sup> If developed, prophetic law rests on three pillars: (1) humanization (*amar makruf*), emancipation (*nahi munkar*), and transcendence (*tukminuna billah*), all of which are

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<https://www.kompas.id/baca/linimasa/2022/02/18/isu-wadas-dari-bendungan-sampai-ganjar-pranowo>, accessed February 25, 2022

<sup>2</sup> *Ibid.*

<sup>3</sup> Yanto, *Basis Keilmuan Pembangunan Hukum Negara Kesejahteraan dalam Perspektif Hukum Progresif*, lihat Ani Purwanti (editor), *Konstruksi Hukum dalam Perspektif Spiritual Pluralistik*, (Yogyakarta: Thafa Media, 2021), p.108.

<sup>4</sup> Jawahir Thontowi, *Mazhab Tamsis: Teori Hukum Inklusif*, (Yogyakarta: FH UII, 2017), p.29.

<sup>5</sup> Abshori, et.al, *Pemikiran Hukum Profetik: Ragam Paradigma Menuju Hukum Berketuhanan*, (Yogyakarta: Ruas Media, 2018), p.13.

geared toward the welfare of humanity (baldatun thoyyibatu warabun ghafur). perfect (kaffah).<sup>6</sup>

If linked to the ideological foundation of the Indonesian nation, namely Pancasila, the values contained in the Pancasila precepts are replete with prophetic foundations, humanization, liberation, and transcendence: the First Precept of Belief in One God, the Second Precept of a Just and Civilized Humanity, the Third Precept of Indonesian Unity, the Fourth Precept of Democracy Led by the Wisdom of Wisdom in Deliberation/Representation, and the Fifth Precept As a source of law, Pancasila is not the typical guideline for regulators and dynamists in guiding legal development during the reform era.<sup>7</sup> This causes the values of Pancasila to decline in importance in national and state life.

In the meantime, the reality is that the method of law is also facing abnormalities and has deviated from the rule of law norms (rechtsstaat). This is not consistent with the definition of Indonesia as a state of law, as Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) specifies expressis verbis that Indonesia is a state of law. Long before the modification to the 1945 Constitution of the Republic of Indonesia, it was declared in the Elucidation of the 1945 Constitution of the Republic of Indonesia that the Indonesian state was a law-based (rechtsstaat) rather than a power-based state (machtstaat). By examining the situation that occurred in Wadas Village, it is interesting to investigate completely the metamorphosis of the prophetic law contained in Pancasila and its implications for the evolution of law in Indonesia.

## METHOD

This study employs qualitative research methodologies. Qualitative research is the analysis of data using a qualitative methodology. In qualitative research, the data are not numbers but rather words. Method of qualitative inquiry for describing and analyzing occurrences, events, social activities, perceptions, and thoughts of individuals or groups.<sup>8</sup> In other words, qualitative research typically takes the shape of tales, events, and written and unwritten records.<sup>9</sup> In addition, a legal philosophy approach is employed to analyze legal issues, which differs from the natural and universally applicable truth and justice principles. This study is philosophical in nature and employs a process of logical deduction that begins with a self-evident normative premise.

<sup>6</sup> M. Syamsudin, *Landasan Ontologi Ilmu Hukum Profetik*, dalam M. Syamsudin (Editor), *Ilmu Hukum Profetik*, (Yogyakarta: FH UII Press, 2013), p.101.

<sup>7</sup> Jawahir Thontowi, *Pancasila dalam Perspektif Hukum Pandangan Terhadap Ancaman "The Lost Generation"*, (Yogyakarta: UII Press, 2016), p.15.

<sup>8</sup>Nana Syaodih Sukmadinata, *Metode Penelitian Pendidikan* (Bandung: Remaja Rosdakarya, 2012), p. 53

<sup>9</sup> M. Syamsudin, *Operasionalisasi Penelitian Hukum*, (Jakarta: Rajagrafindo, 2007), p.133

## RESULT AND DISCUSSION

### 1. Scriptural Law

According to its etymology, prophetic is derived from the English word prophetic, which signifies related to prophethood; a prophetic inspirational story.<sup>10</sup> The Big Indonesian Dictionary interprets prophetic as prophetic. Thus, prophetic refers to features or traits associated with prophets or predictive, predicting. In Surah Al-Imron (3):79 of the Al-Quran, the primary source of Islamic law, the word prophethood is defined as follows:

It is not natural for Allah to give a human being the Book, wisdom, and prophethood, and then to say something against humans. "You should be my worshippers, not Allah's worshippers." However, (he continued), "You should be rabbis because you always teach the Bible and continue to study it.

If elaborated, the word prophethood derives from the word prophet, which refers to a servant of God who is granted privileges in the form of books, wisdom, proximity so that they can communicate and integrate with Him, His angels, and the ability to implement these books and wisdom in oneself, as well as in humans and the environment. In the meantime, the equivalent of the word prophethood refers to everything associated with a person who possesses prophetic potential. They are the Prophet Muhammad, the prophets in general, and the Prophet Muhammad's heirs, namely Allah. However, the auliya Allah did not deliver a fresh message to humanity; rather, they were the successors and connectors of the Prophet Muhammad's tongue. In other words, they are responsible with developing broadly divine and prophetic messages (revelation revealed to the Prophet Muhammad) (Sunnah of the prophet). According to the words of the Prophet Muhammad SAW, "Ulama are prophets' heirs" (HR. Abu Dawud, Turmudzi, and Ibn Majjah from Abud Darda R.A).<sup>11</sup>

After the death of the Prophet Muhammad in 632 A.D., a difficulty arose, particularly in the spheres of politics and law, as revelations ceased and judgments were left to the developing Muslim legal tradition. Political and legal continuity exists because judicial authority is held by the Caliphs, who achieved political leadership, and their decisions, along with those of the prophet, marked the beginning of the development of a set of laws that complemented and propagated Islamic teachings and those found in the Qur'an. Indicating a new stage in the evolution of Islamic law.<sup>12</sup>

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<sup>10</sup> Dictionary.com, <https://www.dictionary.com/browse/prophetic>, accessed February 27, 2022

<sup>11</sup> Hamdani Bakran Adz-Dzakiey, *Psikologi Kenabian, Prophetic Psychology Menghidupkan Potensi dan Kepribadian Kenabian dalam Diri*, dikutip dari M. Syamsudin, *op.cit*, p.14.

<sup>12</sup> Werner Menski, *Comparative Law in a Global Context*, (United Kingdom: Cambridge University Press, 2008), diterjemahkan M. Khozim, Werner Menski, *Perbandingan Hukum dalam Konteks Global Sistem Eropa, Asia, dan Afrika*, (Bandung: Nusa Media, 2012), p.405.

Iqbal and Roger Garaudy, the original creators of the term prophetic, are inextricably linked to the evolution and birth of the word prophetic. First, Iqbal argued that if the prophet were a Sufi, he would not wish to return to earth since he has found peace with God and is by His side. But the prophet desired to repeatedly return to earth to effect social change and alter the path of history. Based on his prophetic principles, he began a sociocultural shift. In other words, the religious experience serves as the foundation for its historical activism. The Sunnah of the prophet is distinct from the route of a mystic who is satisfied with his or her own accomplishments. He referred to the prophet's sunnah as a prophetic ethic.<sup>13</sup> Kuntowijoyo quotes a character named Garaudy as saying that western philosophy was developed from the question: how is knowledge possible? Garaudy proposes rephrasing the question as follows: how is revelation possible? According to others, the only way to prevent the downfall of civilisation is to reclaim the Islamic tradition. The Western philosophical tradition has eliminated God and man. Therefore, Garaudy suggests that humanity adopt the Islamic prophetic ideology (prophecy).

The prophetic science to which Kuntowijoyo refers is a transformational social science based on the results of transforming religious teachings into social theory. Its primary objective is to engineer for social revolution. Consequently, its scope encompasses not only fixed normative characteristics, such as religious elements, but also empirical, historical, and temporal dimensions.<sup>14</sup> In addition to attempting to explain social phenomena, transformative social science also tries to transform them. The question then becomes in which direction, for what purpose, and by whom the transition occurs. Therefore, prophetic social science does not change simply for the sake of change, but rather based on certain ethical and prophetic principles.

Heddy Shri Ahimsa-Putra observed that there were a number of concerns with Kuntowijoyo's efforts to implement Garaudy's concept, namely how this element of revelation should be incorporated into the system of prophetic science. Several pieces of Kuntowijoyo's ideas on prophetic science include: (1) The source of knowledge is revelation-reason; (2) the approach of transcendental structuralism; and (3) Synthetic analysis/interpretation<sup>15</sup>

The prophetic paradigm advocated by Kuntowijoyo is based on Surah Al-Imran 110, which states: "You are the best individuals sent down among humanity to uphold goodness, avert evil (bad), and believe in Allah." Kuntowijoyo derives three concepts

<sup>13</sup> Kuntowijoyo, *Islam sebagai Ilmu, Epistemologi, Metodologi, dan Etika*, (Yogyakarta: Tiara Wacana, 2007), lihat Syamsudin, *loc.cit*, p. 14.

<sup>14</sup> Heddy Shri Ahimsa-Putra, *Paradigma Profetik Islam*, (Yogyakarta: UGM Press, 2017), p.5.

<sup>15</sup> *Ibid.*

from the verse: I amar ma'ruf (humanization transformed), (ii) nahi munkar (freedom transformed), and (iii) tukimanuna billah (transformed into transcendence).<sup>16</sup>

First, the principle of amar ma'ruf in everyday language can mean anything, from very individual things like prayer, remembrance, and prayer, to semi-social things like respect, as well as collective things like establishing a clean government, working on social security, and constructing a social security system. Therefore, the term humanization is employed. In Latin, *humanitas* means 'human beings' or the state of being human; hence, humanization is the process of humanizing humans by eliminating material possessions, reliance, violence, and hatred. Therefore, humanization serves to humanize humans. Second, the notion of nahi munkar can signify anything, including preventing anything that is harmful to oneself and others, restricting smoking, prohibiting carok, eradicating corruption, fighting for the fate of workers, and evicting invaders. For this, we use the term emancipation. The objective of emancipation is freedom from the tragedies of structural poverty, technical hubris, and the exploitation of prosperity. Thirdly, the principle of tukimanuna billah is understood in English as transcendence, which means to penetrate, to pass, and to go beyond in the sense of a voyage above or beyond. Transcendence refers to one's relationship with the Almighty God. The purpose of transcendence is to give culture a transcendental dimension. We have been heavily influenced by hedonism, consumerism, and decadent society. In other terms, transcendence is an attempt to approach God.<sup>17</sup> According to Khudzaifah Dimiyati, prophetic law aims, via transcendence, to make religious values an integral part of the process of constructing civilization within the context of the law.<sup>18</sup>

In essence, it can be understood that prophetic law is founded on Allah's desire for His creatures, as revealed via His Prophets and Messengers, the Mualim and Aulia, who are always *istiqomah* and adhere to the divine path or *sunnatullah*. *Sunnatullah* is the foundation of the philosophy of natural law or natural law, which is elucidated in His words, both written (the Qur'an and the Sunnah) and those described in the cosmos and the reality of existence.<sup>19</sup>

## 2. Pancasila in the Model of Prophetic Law

Since its ratification and constitutional enforcement on August 18, 1945, Pancasila has been the basis or philosophy of the state, the way of life, the national ideology, and a

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<sup>16</sup> M. Syamsudin (Editor), *op.cit*, p.16.

<sup>17</sup> *Ibid*.

<sup>18</sup> Khudzaifah Dimiyati, *Pemikiran Hukum: Sebuah Konstruksi Epistemologi dalam Pemikiran Berbasis Nilai Budaya Hukum Indonesia*, (Yogyakarta: Genta Publishing, 2013), p.138.

<sup>19</sup> Auliya Khasanofa, *Kritik Terhadap Basis Epistemologi Ilmu Hukum Non-Sistematik: Urgensi Menghadirkan Paradigma Ilmu Hukum Profetik*, dalam Absori, et.al, *op.cit*, p.205.

unifying force in the life of Indonesia's country and state. Briefly conceived, Pancasila is a static foundation that unites and a dynamic compass that guides the nation toward its aims. The Pancasila is a wellspring of identity, personality, and morality, according to this view.<sup>20</sup>

Pancasila can play an important role in numerous facets of social, national, and state life. Pancasila is not only the foundation of the state and the national philosophy, but it also serves other crucial tasks. The naming and mention also demonstrates that the Pancasila ideals can serve as the source ideology for all legal sources, etc. The use of many predicates, mentions, or names is also intended to demonstrate that these ideals must be implemented at the level of society, nation, state, and even legislation.<sup>21</sup>

Hernadi remarked that Pancasila has multiple names based on its function, which might be summarized as follows: (1) The Spirit of the Indonesian People; (2) The Personality of the Indonesian People. (3) The Indonesian people's outlook on life. (4) The Indonesian Republic's Constitution (Basic Philosophy). (5) Sources of all Legal Sources of the Republic of Indonesia (Sources of Orderly Law). The wonderful accord of the Indonesian people. (7) The national values and objectives of Indonesia. (8) Life philosophy that unites the Indonesian people.

The existence of multiple names and interpretations of Pancasila does not negate Pancasila's primary meanings: (i) Pancasila as the National Worldview and (ii) Pancasila as the State Foundation of the Republic of Indonesia.<sup>22</sup> Thus, Pancasila is a sacred manifestation, in the sense that Pancasila should not be disregarded in any manner. Pancasila has various facets that should not be abandoned and must be conserved in accordance with the times.

However, as indicated at the opening, things were substantially different during the reform era. As a source of law, Pancasila does not currently serve as a basis for regulators and legal development controllers. According to Prof. Jawahir Thontowi, there are flaws in the five fundamental Pancasila that should serve as pillars of national growth, notwithstanding the current state of disarray. It resembles a Pancasila residence that has been neglected. The success of reform, even modifications with unanticipated negative effects, is an unintended consequence of the wave of reforms that demand new ideals.<sup>23</sup>

At least two issues contribute to the marginalization of legal ideals and standards in Pancasila. First, Pancasila's viewpoint is marginalized and rendered ineffectual by constitutional and legal issues. As a result of the change, the 1945 Constitution of the

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<sup>20</sup> Yudi Latif, *Negara Paripurna Historisitas, Rasionalitas, dan Aktualitas Pancasila*, (Jakarta: Gramedia, 2015), p.41.

<sup>21</sup> Hernadi Affandi, *Pancasila Eksistensi dan Aktualisasi*, (Yogyakarta: Andi, 2020), p.62.

<sup>22</sup> *Ibid*

<sup>23</sup> Jawahir Thontowi, *Pancasila dalam Perspektif...*, *loc.cit*

Republic of Indonesia no longer includes an explanation as an integral part of the Constitution. This was one of the beginnings of the dispersion of the juridical interpretation of Pancasila values in the formulation of legislation. Despite the fact that the preamble to the 1945 Constitution of the Republic of Indonesia does not expressly reference Pancasila, there is a consensus among Indonesians that the five principles (Pancasila) are noble agreements that must be maintained and followed (*pacta sunt servanda*). Second, the marginalization of the Pancasila ideals as a source of law in Indonesia as a result of the New Order Government's political brutality. The Reformation period is the ideal time to exact vengeance for previous misery. As a result of the New Order's authoritarian measures, the majority of casualties were both physical and psychological. As an open state philosophy, Pancasila has become the enemy of some elites and the younger generation, causing them to forget that Pancasila is becoming increasingly genuine.<sup>24</sup>

After understanding that the principles of Pancasila have been suppressed, it is vital to understand that Pancasila is based on a prophetic law paradigm, which means that we have inadvertently disregarded the religious and spiritual values included in Pancasila. In a paradigmatic view, Pancasila is the foundation of the idea that God created the universe and all of its harmoniously integrated contents, including humanity. According to Kaelan, as cited by Prof. Jawahir Thontowi, the paradigm has the connotation of comprehending the source of value, attitude, and fundamental orientation of the source of direction and purpose of development, transformation, and process in a sphere of state and national life.<sup>25</sup>

Pancasila possesses a prophetic legal paradigm, since Kuntowijoyo has said on multiple times that Pancasila is the objectification of Islam in Indonesia. This signifies that Islam's objective form is crystallized in the Pancasila intellectual system.<sup>26</sup> According to Hamka Haq, Pancasila embodies Islamic beliefs, which are described in greater detail below:<sup>27</sup>

Islam is a religion of compassion for all of nature, respect for natural life, living in harmony, tolerance, justice, women's rights, and all aspects of global existence. As a resource for determining the values of the requirements in each version of Pancasila,

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<sup>24</sup> *Ibid JT*

<sup>25</sup> Jawahir Thontowi, "Paradigma Profetik dalam Pengajaran dan Penelitian Ilmu Hukum" *Jurnal Ilmu-ilmu Sosial, Unisia*, Volume XXXIV No. 76 Januari 2012, p 93

<sup>26</sup> Heri Susanto "Reinterpretasi dan Revitalisasi Pancasila sebagai Landasan Filosofis Pengembangan Ilmu Sosial: Studi Kasus Pemikiran Notogoro, Mubyarto, dan Kuntowijoyo)", *Proceeding Kongres Pancasila III, Harapan, Peluang, dan Tantangan Pembudayaan Nilai-nilai Pancasila*, Universitas Airlangga 31 May-1 June 2011, p.34.

<sup>27</sup> M. Saifullah Rohman, "Kandungan Nilai-nilai Syariat Islam dalam Pancasila", *Millah* Volume XIII, Nomor 1 Agustus 2013, p.208.



which are derived from Soekarno's June 1, 1945 speech. Each of the Pancasila principles implicitly and openly incorporate the values of Islamic law.

To avoid appearing extremist in comprehending Pancasila and Islam, Pancasila is not a religion, but its content is consistent with the Islamic teachings' ideals. Therefore, it is possible to say that Pancasila has an Islamic flavor, as its content is consistent with the principles of Islamic teachings. Pancasila combines divine and human ideals, individual and community interactions, democracy and deliberation, as well as justice and prosperity.<sup>28</sup>

Kuntowijoyo, according to Heddy Shri Ahimsa-Putra, employs the foundation of transcendental cognition that is incorporated in prophetic law as the basis for humanization, emancipation, and transcendence. The prophetic innovations of Kuntowijoyo became the cornerstone of prophetic law. The prophetic concept advocated by Kuntowijoyo is based on Surah al-Imran verse 110, which states: "You are the best people entrusted to mankind to uphold kindness, prevent evil (bad), and believe in Allah." Kuntowijoyo derives three concepts from the verse: (i) amar ma'ruf (humanization transformed), (ii) nahi munkar (freedom transformed), and (iii) tukimanuna billah (transformed into transcendence).<sup>29</sup>

First, the principle of amar ma'ruf in everyday language can mean anything, from very individual things like prayer, remembrance, and prayer, to semi-social things like respect, as well as collective things like establishing a clean government, working on social security, and constructing a social security system. Therefore, the term humanization is employed. In Latin, *humanitas* means 'human beings' or the state of being human; hence, humanization is the process of humanizing humans by eliminating material possessions, reliance, violence, and hatred. Therefore, humanization's objective is to humanize humans. Second, the notion of nahi munkar can signify anything, including preventing anything that is harmful to oneself and others, restricting smoking, prohibiting carok, eradicating corruption, fighting for the fate of workers, and evicting invaders. For this, we use the term emancipation. The objective of emancipation is freedom from the tragedies of structural poverty, technical hubris, and the exploitation of prosperity. Third, the notion of tukimanuna billah, which translates to "transcendence" in English, entails that to transcend is to permeate, to pass through, and to exceed the meaning of a voyage above or beyond. Transcendence refers to one's relationship with the Almighty God. The purpose of transcendence is to give culture a transcendental

<sup>28</sup> Iwan Satriawan, et.al, "Pencegahan Gerakan Radikalisme melalui Penanaman Ideologi Pancasila dan Budaya Sadar Konstitusi Berbasis Komunitas", *Jurnal Surya Masyarakat*, Volume 1 Nomor 2 (May 2019), p.107

<sup>29</sup> Kuntowijoyo, *Islam sebagai Ilmu, Epistemologi, Metodologi dan Etika*, (Yogyakarta: Tiara Wacana, 2007), dikutip dari M. Syamsudin (Editor), *loc.cit.*

dimension. We have given in to the currents of hedonism, materialism, and a decadent culture. In other terms, transcendence is an attempt to approach God.<sup>30</sup>

The concept and basis of prophetic law demonstrates that Pancasila contains a prophetic legal basis; for instance, the First Precept of Pancasila, which reads Belief in One Supreme God, contains the principle of *tukimanuna billah* (transcendence) regarding the vertical relationship between humans and Allah SWT, and horizontal relationships between religious communities. The second commandment, just and civilized humanity, includes the principle of *amar ma'ruf* (humanization), according to which every human being must recognize the dignity and worth of others and treat them accordingly. In every formulation of Pancasila, the prophetic legal underpinning is there, so that in the future, we cannot simply disregard or violate the Pancasila values.

As a result of the dynamics that happened during the formulation of Pancasila, it has been agreed that Indonesia was neither founded as a religious state nor as a secular state that completely separates religion from state affairs. Prof. Jawahir referred to Indonesia as a non-theocratic religious state despite the consensus that Indonesia is a religious nation-state. In a Pancasila state that recognizes "religious nation state," the state does not enforce particular religious laws, but it must guarantee protection (protection) for residents who wish to worship in accordance with their respective religious teachings.<sup>31</sup>

### 3. Wadas Village Conflict in the Perspective of the Rule of Law

The National Strategic Program for the construction of the Bener Dam poses no concern for the Wadas Village people. In this instance, the government must correct the employment of a repressive strategy and a plan for stone mining. President Joko Widodo approved the construction of the Bener Dam as one of the 58 National Strategic Programs for the Dam and Irrigation Sector by Presidential Decree No. 109 of 2020. This project is situated approximately 8.5 kilometers from the heart of Purworejo City in Central Java. The Ministry of Public Works and Public Housing (PUPR) is in charge of the Bener Dam project via the Serayu Opak River Basin Center (BBWS).<sup>32</sup>

In addition to repressive tactics and plans for andesite mining, it is believed that the administration has not complied with Constitutional Court Decision No. 91/PUU-XVIII/2020. Because the Constitutional Court indicated in its order to suspend all

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<sup>30</sup> *Ibid*, p.18.

<sup>31</sup> Moh. Mahfud MD, *Berhukum Pancasila*, Koran Sindo 21 April 2018, <https://nasional.sindonews.com/berita/1299607/18/berhukum-pancasila>, accessed 03 March 2022.

<sup>32</sup> Yohanes Mega Hendarto, *Isu Wadas, dari Bendungan Sampai Ganjar Pranowo*, <https://www.kompas.id/baca/linimasa/2022/02/18/isu-wadas-dari-bendungan-sampai-ganjar-pranowo>, accessed 19 February 2022

strategic and broad-impact actions/policies, and because it is clear that the Bener Dam falls under the PSN category, it is not appropriate to publish new implementing regulations for Law No. 11 of 2020 concerning Job Creation. as evidenced by the Attachment to Presidential Regulation Number 109 of 2020 regarding the Third Amendment to Presidential Regulation Number 3 of 2016 for Acceleration of Implementation of National Strategic Projects in conjunction with Government Regulation Number 42 of 2021 regarding Ease of Implementation of National Strategic Projects.

Previously, it was declared that the conflict that happened in Wadas Village was a legal anomaly that violated the principles of the rule of law. According to Tamanaha, the rule of law (rule of law or *rechtsstaat*) requires government officials and citizens to adhere to the law and act accordingly. In order to be deemed a state of law, further characteristics must be met, specifically, the applicable legislation must be adopted first, publicized as a form of transparency, and applied to the entire community in a clear and precise manner.<sup>33</sup> In a state of law, the authority to govern is founded on the rule of law, which aims to preserve law and order. In dispute is the absence of acts of violence against citizens by the community or by law enforcement agents.<sup>34</sup>

The concept of rule of law in the formation of western liberal governments is defined as a reaction to absolute government accompanied by lack of freedom, concentration of power, and lack of government accountability. Throughout the 20th century, the rule of law was viewed as a precursor to totalitarianism, which is characterized by the suppression of individual freedom, including the prohibition of forming political parties and deliberative bodies, as well as the prohibition of freedom of association, assembly, and expression. Through legal instruments, totalitarianism establishes legitimacy in power.<sup>35</sup> According to Tamanaha, there are two roles of the rule of law: First, the rule of law functions to limit government power by (i) requiring government administrators to observe the law and (ii) imposing legal constraints on legislators. Second, the purpose of the state of law is to preserve order and coordinate citizens' behavior and transactions.<sup>36</sup>

In general, the principles of the rule of law recognized in Continental Europe and Anglo-Saxon countries are as follows: (1) Protection of Human Rights; (2) Separation of Powers; (3) Government Based on Laws; (4) State Administrative Court; (5) the rule of

<sup>33</sup> Brian Z. Tamanaha, "A Concise Guide to Rule of Law", Legal Studies Research Paper Series, September 2007, p.3.

<sup>34</sup> Mustafa Kamal Phasa, et.al, *Pancasila dalam Tinjauan Historis dan Filosofis*, (Yogyakarta: Citra Karsa Mandiri, 2003), p.100-108, lihat juga Jawahir Thontowi, *op.cit*, p.57.

<sup>35</sup> Ruben Mendez Reategui dan Oscar Sumar Albujar, "Rule of Law versus Soft Rule of Law", *Revista de Derecho Político*, Nomor 109, (September-Desember 2020), p.380

<sup>36</sup> Brian Tamanaha, *op.cit*, p.3-6

law; (6) Equality in Law; (7) Constitution based on Human Rights.<sup>37</sup> According to Jimly Asshiddiqie, there are currently thirteen (thirteen) fundamental principles of the rule of law. (1) Supreme Law; (2) Equality before the Law; (3) Legality Principle; (4) Limitation of Power; (5) Independent Executive Organs; (6) Free and Impartial Judiciary; (7) State Administrative Court; (8) Constitutional Court; (9) Protection of Human Rights; (10) Democratic (Demokratische Rechtsstaat); (11) Realizing Social Welfare (Welfare Rechtsstaat); (12) Transparency and Social Control; (13) Belief in One Supreme Being.<sup>38</sup>

On the basis of their current state of development, the so-called principles are deemed insufficient to facilitate the execution of an orderly, transparent, and accountable rule of law. The World Justice uses the principle of the rule of law as an indicator of the implementation of the rule of law, including: (1) Limitation of Power; (2) Eradication of Corruption; (3) Open government; (4) Basic Rights; (5) Order and Security; (6) Effectiveness of implementing regulations; (7) Civil Court; (8) Criminal Justice.<sup>39</sup> In 2021, based on statistics from the WJP Rule of Law Index, Indonesia will have the 68th position, a decline from 2020, when Indonesia would hold the 59th position. In comparison to other nations, particularly those in Southeast Asia, Indonesia ranks 17th, below Singapore.<sup>40</sup>

According to the analysis of Professor Jawahir Thontowi, the reform era lacks, among other things, two elements connected to the concept of the present rule of law: The state must first be involved in development and security. Prof. Jawahir's arguments included the situation in Wadas Village, the existence of oppressive activities carried out by the apparatus (Polri and TNI), and the resulting divide between the government and the people. Second, the state must be present as a state of law capable of preventing and overcoming systemic corruption, collusion, and nepotism.<sup>41</sup> The situation in Indonesia is deteriorating as corruption cases permeate the executive, legislative, and judicial branches. In addition to various dishonest government employees, DPR/DPRD members, and judicial authorities, businesses are also implicated. On multiple occasions, businessmen who were implicated in corruption cases involving the acquisition of products and services appeared in court to contest the judge's judgment. With the change of Law No. 30 of 2002 pertaining to the Corruption Eradication Commission, as revised again by Law No. 19 of 2020, the state of law enforcement, particularly the fight against corruption, has deteriorated. This demonstrates that the state, in this case the

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<sup>37</sup> Maleha Soemarsono, "Negara Hukum Indonesia Ditinjau dari Sudut Teori Tujuan Negara", *Jurnal Hukum dan Pembangunan*, Nomor 2 (April-June 2007), p.312

<sup>38</sup> Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, (Jakarta: Sinar Bakti, 2009), p.127.

<sup>39</sup> WJP Rule of Law Index, <https://worldjusticeproject.org/rule-of-law-index/factors/2021/>, accessed March 8, 2022.

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

<sup>41</sup> *Ibid*

government, has never had a strong commitment to eradicate corruption, and the reality tends to diminish the power of the Corruption Eradication Commission as a result.

The legal system adopted by the Indonesian government is the Pancasila legal system. The Founding Father envisioned the Indonesian state as a legal, democratic, monotheistic, and socially just nation.<sup>42</sup> Even though it lacks eight lines from the Jakarta Charter, the Belief in One God principle underscores the unbreakable relationship between state and religion in the aspirational creation of the Indonesian state. According to Tahir Azhary, this is a unique feature of the Pancasila State Law that distinguishes it from other legal state notions such as *rechtsstaat*, rule of law, and socialist legality.<sup>43</sup>

According to Mukthie Fadjar, the status of Pancasila legislation might be described as follows:<sup>44</sup>

The Pancasila State of Law is a rule of law concept that must meet the criteria of the rule of law concept in general (elements of recognition and protection of human rights, an independent and impartial judiciary, the principle of legality in the formal and material senses), while also being adorned with elements Indonesian that are contained in the Pancasila's five fundamental values.

Several concepts are associated with the Pancasila state law: (1) there is a tight relationship between religion and the state; (2) reliance on God Almighty; (3) freedom of religion in a positive sense; (4) neither atheism nor communism are permitted; (5) the principle of kinship and harmony.<sup>45</sup> In addition, Mahfud MD elaborated on the following aspects of the Pancasila legal state: It begins with the concept of a family state. Second, it is a state in which the law is certain and fair. It is a religious nation-state, thirdly. It mixes law as a method of societal transformation with law as a reflection of community culture. Fifth, the foundation for formulating and forming national laws must be impartial and universal legal concepts.<sup>46</sup>

In the context of the conflict that happened in Wadas Village, as a Pancasila state law, the government should avoid violent activities, particularly those that affect the general public's interests, since they are not in conformity with the Pancasila state law's principles. Therefore, the government should employ a persuasive strategy that leads to the notion of kinship in order to ascertain the intent of the people in order to make

<sup>42</sup> A. Mukthie Fadjar, *Negara Hukum dan Perkembangan Teori Hukum*, (Malang: Intrans Publishing, 2018), p.151.

<sup>43</sup> Hamdan Zoelva, "Relasi Islam, Negara, dan Pancasila dalam Perspektif Tata Hukum Indonesia" *Jurnal Syariah dan Hukum*, Volume 4 Nomor 2 (Desember 2012), p.99-112.

<sup>44</sup> A. Mukthie Fadjar, *op.cit*, p.152.

<sup>45</sup> M. Tahir Azhary, *Negara Hukum Suatu Studi tentang Prinsip-prinsipnya dilihat dari Segi Hukum Islam Implementasinya pada Periode Negara Madinah dan Masa Kini*, (Pranada: Jakarta, 2015), p.97.

<sup>46</sup> Arief Hidayat, *Negara Hukum Berwatak Pancasila*, (Paper presented at the National Seminar in the Framework of the 2017 Faculty of Law Week, Atma Jaya University, Yogyakarta), p.4-5.

collective decisions without ignoring the Wadas Village residents' interests. Thus ensuring the community's safety, as evidenced by legal clarity and justice for the impacted community in Wadas Village.

Referring to the situation in Wadas Village, the Pancasila legal state must be implemented because it contains prophetic foundations and principles, as mentioned by Kuntowijoyo, such as the principle of amar ma'ruf, which is transformed into humanization, by respecting and following the wishes of the people of Wadas Village without taking any action. repressive. Second, the altered principle of nahi munkar precludes the abuse of power in the development of strategic projects. Thirdly, in accordance with the notion of tukimanuna billah, which has been changed into transcendence, the government should not be just focused on the economic sector of development without also considering the collective interests of the people. Consequently, these three principles represent the essence of the Pancasila legal state, which must be followed in the life of the nation and state.

## CONCLUSION

Prophetic law is based on the will of Allah SWT to His creatures which was revealed through His Prophets and Messengers, the Mualim and Aulia who are always istiqomah and hold fast to the divine line or sunnatullah. Sunnatullah is the basis of the philosophy of natural law or natural law, which is explained through His verses, both written (the Book and the Sunnah) as well as those that are described in the universe and the reality of life. The foundation of prophetic law is reflected in Pancasila. In the paradigmatic approach, Pancasila is the foundation of a belief that the universe and all its contents are harmoniously created by Allah SWT. In addition, Pancasila is an objectification of Islam in Indonesia, meaning that Islam finds its objective form in the crystallization of Pancasila thought.

In the context of the conflict that occurred in Wadas Village, as a state based on Pancasila law, the government should avoid approaching power with repressive actions, especially those that are detrimental to the interests of the general public because it is not in accordance with the principles of the Pancasila state law. Therefore, what should be done by the government is to take a persuasive approach that leads to the principle of kinship, in order to know the will of the residents with the aim of making collective decisions without ignoring the interests of the Wadas Village residents. Thus the implementation of the state of Pancasila law is a necessity because it contains the prophetic foundations and principles as mentioned by Kuntowijoyo, the principle of amar ma'ruf which is transformed into humanization, by respecting and following the will of the Wadas Village community without any repressive actions. Second, the

principle of nahi munkar which is transformed into liberation, prevents the abuse of power in the development of strategic projects. Third, the principle of tukimanuna billah which is transformed into transcendence, the government should not only be oriented towards the economic sector of development without looking at the collective interests of the people. Thus, these three principles are the essence of the Pancasila legal state which needs to be lived and practiced in the life of the nation and state.

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