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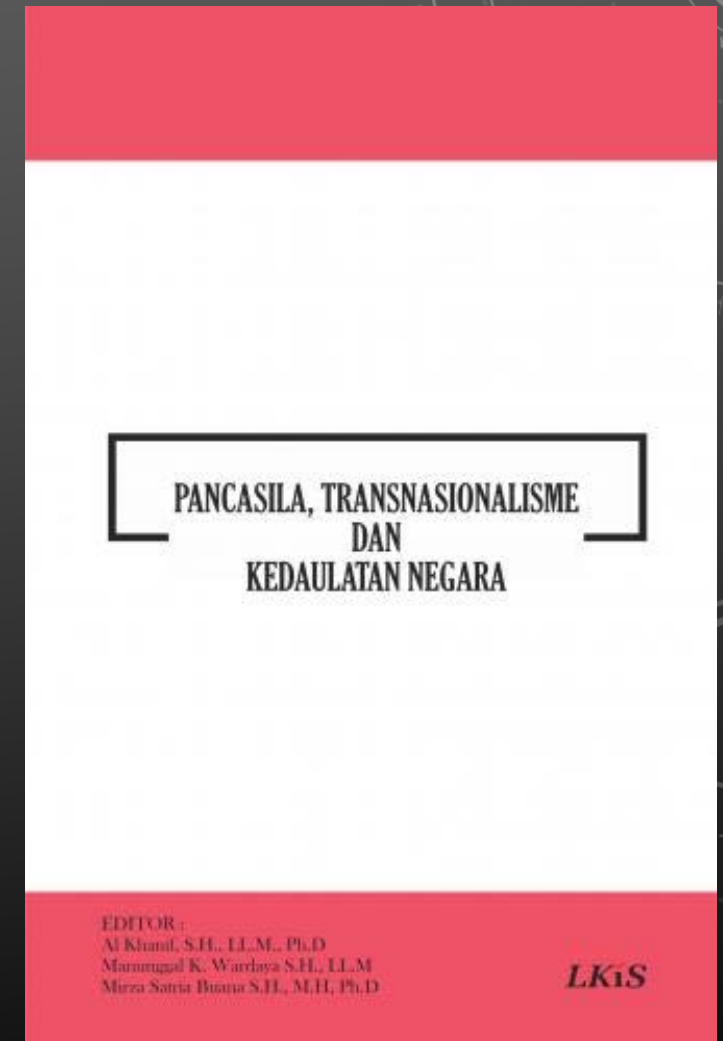
KETUA SERIKAT PENGAJAR HAK ASASI MANUSIA (SEPAHAM) INDONESIA

MEMAHAMI ATAU MEMANIPULASI DIMENSI KEMANUSIAAN DALAM PANCASILA?

WEBINAR NASIONAL FAKULTAS HUKUM UNIVERSITAS MUHAMMADIYAH SIDOARJO, 29 JULI 2020

BEBERAPA CATATAN PENTING

- Pancasila as a sacred canopy in Indonesia – the sole foundation of the polity.
- Monotheistic religion and God in Pancasila is basically sociological, so that the concept of God and religion here is purely a matter of interpretation.
- Ekadarmaputera: Pancasila as the empty jar



HAK ASASI MANUSIA DI INDONESIA: ARAH KEBIJAKAN DAN TANTANGANNYA

- There is a significant development of human rights in the Constitution and national legislation after the fall of Suharto Regime.
- The *Reformasi* Governments adopted a wide range of constitutional human rights provisions, enacted a Human Rights Act and ratified several international human rights instruments.
- Declaration of article 1 of the ICCPR– preserving the unitary state concept.
- The recognition of ‘religious values’ in article 28J as a justified restriction.
- Communal character of society - members share a certain value that binds them.
- No one left behind.

KARAKTER NORMA PANCASILA

- The country believes in One Supreme God which leaves an open interpretation of this concept to all Indonesians.
- Religion under Pancasila and the 1945 Constitution is a fundamental part of the legal and human rights system, as well as all aspects of national development in Indonesia.
- A Theistic Secular concept is to accommodate the diversity of Indonesia.
- Indonesia is an integralist state, which should preserve Indonesian culture of harmony and consensus to achieve public good (*masalah mursalah*)

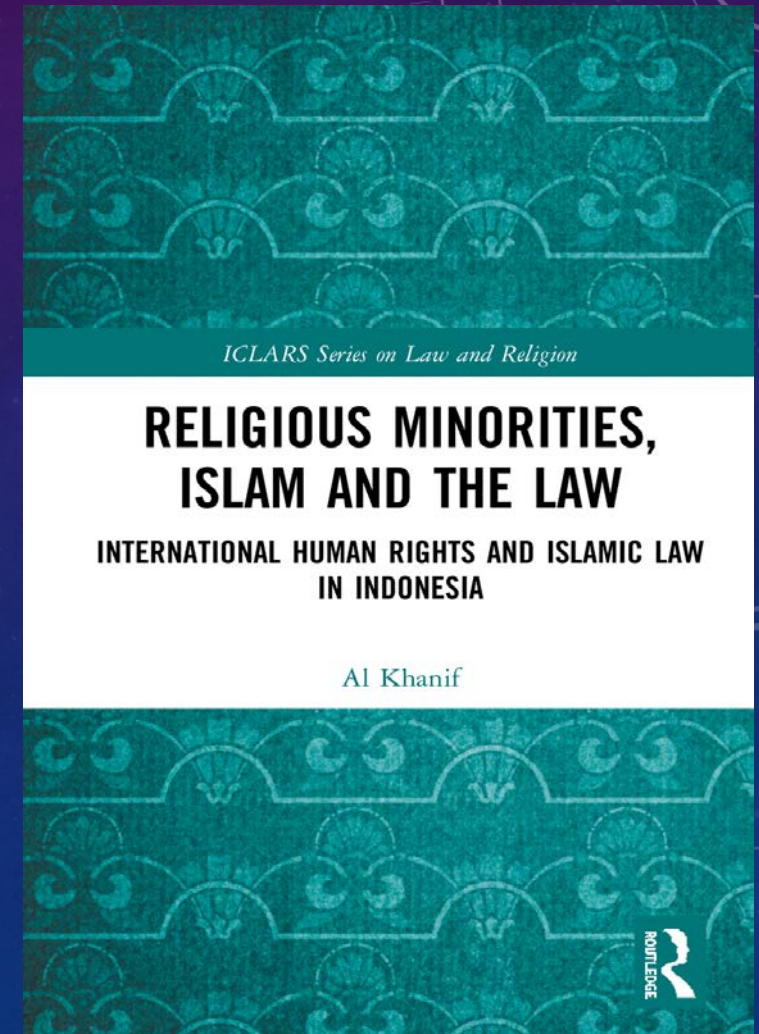
QUESTIONING A QUASI-THEISTIC SECULAR STATE? – JAKARTA POST, 1 JUNI 2015

- Pancasila and the 1945 Constitution assert that Indonesia is based on the rule of law, not only forming a state based on laws but also “**recognizing living laws**”, which believes in monotheistic religions.
- Pancasila and the 1945 Constitution served to become the supreme defenders of faith and religions.
- But! religion in Indonesian law may be defined as “theistic-secular religion” which affirms that the State believes in One Supreme God.
- Indonesia is neither a theocratic state nor a secular state.

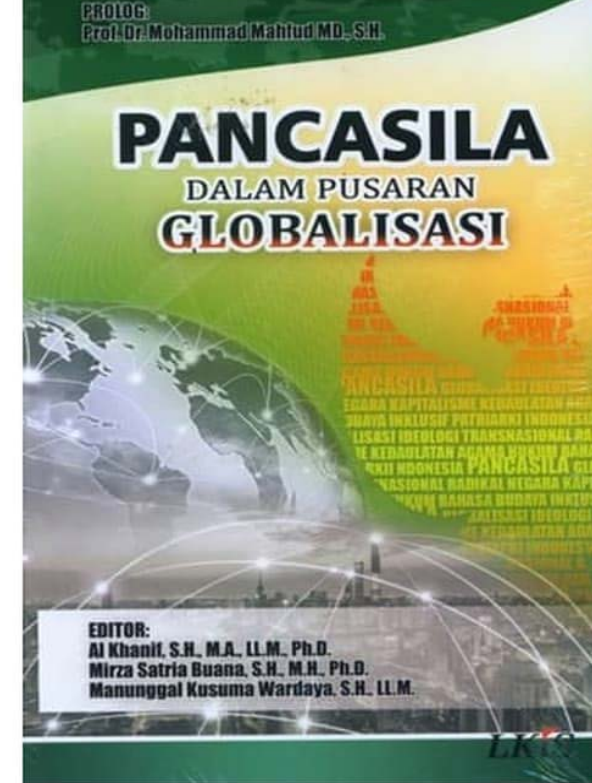


MEMAKNAI TERMINOLOGI NEGARA THEISTIK SEKULER VERSI PANCASILA

- Indonesia upholds secularism in its legislation but at the same time considers the significant role of theistic religion in the public sphere



- Pancasila memainkan peranan penting dalam diskursus perkembangan hukum di Indonesia, khususnya setelah berdirinya MK Tahun 2003.
- Agama, khususnya Islam tidak harus dimaknai vis a vis dengan dimensi Ketuhanan dan kemanusiaan Pancasila.
- Agama melekat pada masyarakat sehingga mempengaruhi perspektif terkait norma-norma khusus di Pancasila dan Konstitusi.



BEBERAPA CATATAN TENTANG PANCASILA

MEMANIPULASI PANCASILA?

- Orde Lama: Being religious indicates not nationalists – PNSP/1/1965 case
- Orde Baru: Denial of Pancasila indicates seditious (against government) – Pancasila as the sole principle
- Reformasi: Transnationalism, fundamentalism, bureaucratization.
- Daniel S. Lev: “Socio-Legal Balancing”

KESIMPULAN

- Dimensi kemanusiaan dalam Pancasila dimonopoli oleh mayoritas atas nama harmoni sosial
- Konsep kemanusiaan Pancasila yang luas disalahtafsirkan/dimanipulasi penguasa – kelompok mayoritas atas nama kesatuan dan harmonisasi masyarakat.
- Pancasila terjebak diskursus transnasional (universalisme, relativisme, fundamentalisme, demokrasi)

Joseph Raz: Negara tidak perlu melakukan pelanggaran hukum untuk melakukan kejahatan kepada masyarakatnya ketika norma-norma yang terdapat di regulasi masih mengandung substansi kejahatan.