

## Legal Standing of Pancasila in the Practice of Judicial Review in Indonesia based on Stufenbau Theory: Perspective of Constitutional Law

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### **Abstract**

*This article examines the legal position of Pancasila in the practice of judicial review of legislation in Indonesia, particularly in relation to the 1945 Constitution. Drawing upon Hans Kelsen's Stufenbau theory and its further development by Hans Nawiasky, the study places Pancasila at the apex of the normative hierarchy as the grundnorm or staatsfundamentalnorm. Through doctrinal legal research, the article analyzes how Pancasila functions not only as a symbolic foundation of the state but also as a meta-juridical norm that guides the formation, interpretation, and evaluation of statutory law. This research used a doctrinal legal method, focusing on identification and interpretation of legal sources to analyze the underlying principles, norm, and value embedded within law. The analysis shows that although the Constitutional Court has applied Pancasila both as the state foundation and as part of the Constitution through its inclusion in the Preamble, such dual treatment risks weakening its role as the highest legal norm. This article argues that in order to maintain the status of Pancasila as the grundnorm, judicial review should refer to it as the highest normative reference, not simply as a textual component of the Constitution. This perspective ensures a more substantive and coherent legal framework that upholds the foundational principles of the Indonesian legal system.*

### **keywords:**

*Pancasila, constitutional review, grundnorm, staatsfundamentalnorm, Constitutional Court, legislative hierarchy, Indonesian legal system.*

### **A. Introduction**

The judicial review of legislation against the Constitution is one of the core responsibilities entrusted by the state to the Constitutional Court, as one of Indonesia's judicial institutions. Through its constitutional review function, the Constitutional Court acts as the frontline guardian of the integrity of the Constitution (*Guardian of the Constitution*). From its inception, the Constitutional Court was

established as a specialized judicial body with the purpose of safeguarding and ensuring that all legislation in force does not contradict the Constitution, which serves as the supreme law of the land.<sup>1</sup> The term "legislation" in this context specifically refers to statutes (*undang-undang*). The discourse on delegating the authority to conduct judicial review dates back to the period preceding Indonesia's independence, initially proposed by Muhammad Yamin, who introduced the concept under the term "comparing statutes".<sup>2</sup> Upon further examination, this term aligns with the modern understanding of "judicial review" as used in the 1945 Constitution. However, Yamin's conception of judicial review was limited solely to material (substantive) review.<sup>3</sup>

The constitutional review function exercised by the Constitutional Court is passive in nature, meaning that the Court may only perform its duties when a petition is submitted by a citizen who has suffered or is at risk of suffering a constitutional harm due to the enactment of a statute. In practice, such petitions predominantly emphasize material review, defined as the examination of whether a legal norm within a statute is in conflict with the provisions of the 1945 Constitution. However, upon closer examination, beyond the articles of the Constitution, there are also the values of Pancasila embedded in the Preamble to the 1945 Constitution, which likewise forms an integral part of the Constitution.

Some circles maintain the view that the Constitution consists solely of the articles of the 1945 Constitution, thereby excluding the Preamble from its scope.<sup>4</sup> This presumption is also tied to the fact that Pancasila, as the *Grundnorm*, is not explicitly acknowledged in the constitutional articles. Pancasila is mentioned only once in the 1945 Constitution, and only in reference to the national emblem. Furthermore, Pancasila is never explicitly listed within the formal hierarchy of legislation. According to Law Number 12 of 2011 on the Formulation of Laws and Regulations, as amended, the 1945 Constitution is expressly stated to occupy the highest position in the hierarchy of laws and regulations in Indonesia. Based on this legal drafting doctrine, this research aims to examine the legal standing of Pancasila in the practice of judicial review of statutes against the Constitution in Indonesia.

The position of Pancasila as a normative benchmark in the constitutional review, perhaps inadvertently, led the Constitutional Court of Indonesia to regard Pancasila not merely as the nation's ideological foundation, but through several of its decisions as an integral part of the Constitution, due to the explicit inclusion of its values in the Preamble of the 1945 Constitution. As a constitutional adjudicatory body entrusted with the duty to safeguard the purity of the Constitution, it appears reasonable that the Court situates Pancasila within the constitutional

<sup>1</sup> Irfan Nur Rachman, Alboin Pasaribu, and M Lutfi Chakim, *Pengujian Formil Undang-Undang Di Mahkamah Konstitusi* Jakarta Rajawali Press, (2021): 3.

<sup>2</sup> Muhammad Yamin, *Naskah Persiapan Undang-Undang Dasar 1945*, 1 (Jakarta: Prapantja, 1959); Sekretarian Negara RI, *Risalah BPUPKI Dan PPKI*, Jakarta: Sekretarian Negara RI, (1995): 299.

<sup>3</sup> Jimly Asshiddiqie, *Pengujian Formil Undang-Undang Di Negara Hukum*, Jakarta: Konstitusi Press (2020): 79.

<sup>4</sup> Mohamad Roky Huzaeni, 'Kedudukan Hukum Pancasila Dan Konstitusi Dalam Sistem Ketatanegaraan Indonesia', *Pancasila: Jurnal Keindonesiaan* 2, no. 1 (25 April 2022): 114–25, <https://doi.org/10.52738/pjk.v2i1.83>.

framework, thereby preserving the scope of its authority as stipulated under Article 24C of the 1945 Constitution to review the constitutionality of laws. However, in addition to this interpretation, the Court has also invoked Pancasila as a tool of constitutional assessment in its capacity as a *grundnorm*, a foundational norm standing above the Constitution itself. Remarkably, both of these positions were articulated within the same case. For instance, in Decision Number 140/PUU-VII/2009, submitted by the *Perkumpulan Inisiatif Masyarakat Partisipatif Untuk Transisi Berkeadilan* and others, which challenged the constitutionality of Law No. 1/PNPS/1965, the Constitutional Court held that Pancasila served simultaneously as part of the constitutional which is written on 4<sup>th</sup> paragraph, and also Pancasila as *grundnorm*. Such doctrinal inconsistency in determining the status of Pancasila as a legal benchmark risks generating ambiguity in the legal construction employed by the Court, and more broadly, contributes to uncertainty in the application and methodology of constitutional and judicial review.

This situation reflects an urgent need to develop a more coherent theoretical and methodological framework for positioning Pancasila within the national legal hierarchy, particularly in the context of constitutional review. Should the Constitutional Court continue to maintain this dual approach without a well-structured conceptual formulation, the practice of constitutional adjudication will remain vulnerable to epistemic uncertainty, whether Pancasila is to be treated as a codified legal norm within the Preamble of the 1945 Constitution, or as a meta-juridical foundational norm situated outside the positive legal system. Without a clear normative distinction, Pancasila risks being reduced to a mere instrument of judicial legitimation in constitutional review proceedings. Therefore, the Constitutional Court must clarify the methodological status of Pancasila in its legal reasoning to avoid a conflation between constitutional authority and ideological assertion.

Although several previous studies such as “Kedudukan Hukum Pancasila dan Konstitusi dalam Sistem Ketatanegaraan Indonesia”<sup>5</sup> and *The Relationship between Pancasila and Constitutional Court Decisions as a Source of Law in Indonesia*<sup>6</sup> have addressed the normative role of Pancasila within Indonesia’s legal system, these discussions have not sufficiently explored the conceptual inconsistency demonstrated by the Constitutional Court in simultaneously positioning Pancasila as both a component of the Constitution and as a *grundnorm*. Similarly, the “Pemaknaan Pancasila dalam Sistem Hukum Indonesia”<sup>7</sup> provides a philosophical account of Pancasila in legal development but does not examine, from a methodological perspective, its position within the normative hierarchy of legislation, nor its application in judicial review. This article seeks to fill that gap by analyzing the legal status of Pancasila in the practice of constitutional review in Indonesia, with based on Stufenbau Theory as a conceptual framework.

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<sup>5</sup> Ibid.

<sup>6</sup> Labib Muttaqin, Sudjito Atmoredjo, and Andy Omara, ‘Relasi Pancasila Dengan Putusan Mahkamah Konstitusi Sebagai Sumber Hukum Di Indonesia’, *Jurnal Konstitusi* 21, no. 1 (1 March 2024): 77–97, <https://doi.org/10.31078/jk2115>.

<sup>7</sup> Erdin Tahir, ‘PEMAKNAAN PANCASILA DALAM SISTEM HUKUM INDONESIA’, *Yustitia* 9, no. 2 (15 October 2023): 133–57, <https://doi.org/10.31943/yustitia.v10i2.194>.

## B. Research Method

This research used the doctrinal method of legal research. This study concentrates on doctrines which are syntheses of rules, principles, norms, or interpretative guidelines and values, and proceeds with both locating the sources of law and interpreting or analysing the text.<sup>8</sup> Normatively, this research includes the study of legal principles, legal systematic structure, and the degree of legal synchronization,<sup>9</sup> using both a conceptual and statutory approach<sup>10</sup>. Doctrinal research involves rigorous analysis and creative synthesis, the making of connection between seemingly disparate doctrinal strands, and the challenge of extracting general principles from an inchoate mass of primary materials. It makes a unique blend of deduction and induction so that conceptual analysis of law and creative synthesis together build up the legal proposition which engages in theoretical discussion.<sup>11</sup>

In the context of this research, the doctrinal approach is highly relevant as it enables an in-depth analysis of the Constitutional Court's reasoning in positioning Pancasila in a dual position both as an integral part of the Constitution (through the Preamble of the 1945 Constitution) and simultaneously as a *grundnorm* standing above the Constitution as a fundamental norm in the hierarchy of norm based on Stufenbau Theory. Through this method, the study evaluates the coherence of the Court's legal reasoning in using Pancasila as a standard for constitutional review of legislation. Thus, this research method is not only theoretically appropriate but also directly aligned with the legal issues at the core of this study.

## C. Discussion and Analysis

### 1. Legal Standing of Pancasila in Constitutional Practice in Indonesia

The theory of the hierarchical structure of legal norms, known as the *Stufenbau Theory* by Hans Kelsen, clearly explains the existence of a stratified order within legal norms. Kelsen's theory is based on the idea that the validity of a legal norm derives from a higher norm, which in turn draws its validity from another norm of a higher order, continuing in this manner until arriving at a norm whose validity can no longer be traced.<sup>12</sup> This theory was later developed by Hans Nawiasky, who expanded the concept by asserting that in addition

<sup>8</sup> B. C. Nirmal and Rajnish Kumar Singh, *Contemporary Issues in International Law: Environment, International Trade, Information Technology and Legal Education*, Springer,( 2018); P. Ishwara Bhat, *Idea and Methods of Legal Research*, New Delhi: Oxford University Press,( 2019), 28.

<sup>9</sup> Soerjono Soekanto, *Pengantar penelitian hukum* Jakarta: Penerbit Universitas Indonesia (UI-Press), (1986), 51; Soerjono Soekano and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Jakarta: Rajawali, (1986), 15.

<sup>10</sup> Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi*, Prenada Media,( 2014), 133.

<sup>11</sup> Terry Hutchinson, 'Doctrinal Research: Researching the Jury', in *Research Methods in Law*, 2nd ed, New York: Routledge, (2013), 7–8; Dennis Pearce, Enid Campbell, and Don Harding, *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission*, Canberra: Australian Government Publishing Service, (1987), 6; P. Ishwara Bhat, *Idea and Methods of Legal Research*, 29.

<sup>12</sup> Andi Munafri D. Mappatunru, 'The Pure Theory of Law & Pengaruhnya Terhadap Pembentukan Hukum Indonesia', *Indonesian Journal of Criminal Law* 2, no. 2 (Desember 2020) : 132-152 <https://doi.org/10.31960/ijocl.v2i2.541>

to being hierarchical and layered, legal norms may be classified into four distinct categories: the first category is the *staatsfundamentalnorm*, or Fundamental Norm of the State; the second is the *staatsgrundgesetz*, or Basic Law of the State; the third is the *formelles Gesetz*, or formal statutory law; and the fourth is the *Verordnung und autonome Satzung*, which includes implementing regulations and autonomous rules.

Referring to the views of Kelsen and Nawiasky, the *staatsfundamentalnorm* is understood as an abstract norm, a presupposed or assumed norm that is neither written nor formally enacted, and therefore does not fall within the structure of positive law in a state legal system. Although it is not part of the hierarchy of positive legal norms, the *staatsfundamentalnorm* is recognized as the highest legal foundation, possessing a meta-juridical nature.<sup>13</sup> It may also be interpreted as the norm underlying the formation of a constitution, or *staatsgrundgesetz*, which is also referred to as a *grundnorm* or basic norm that is immutable.<sup>14</sup>

S. Hamid Attamimi later compared this theoretical framework with the practice of the Indonesian legal system. When viewed within Indonesia's legal structure, and in light of the definition provided by Kelsen and Nawiasky regarding the *staatsfundamentalnorm* as an abstract, unwritten norm that lies outside the scope of positive law but is nonetheless recognized as the supreme legal foundation, *Pancasila* may be considered a *staatsfundamentalnorm* or *grundnorm*.<sup>15</sup> As such, *Pancasila* functions as the *Rechtsidee*, or the legal ideal of the state, serving as the foundational basis for the formation of legislation. Therefore, both the legislative process and legal implementation must reflect the values of *Pancasila*.

As the *staatsfundamentalnorm* of the state, *Pancasila* functions not only as a philosophical foundation but also as a guiding framework for the formation and implementation of national law. The values embedded in *Pancasila* constitute the normative basis for the Indonesian legal system's objectives, to establish a just legal order, uphold human dignity, and reflect the collective ideals of the nation. Accordingly, legislation must not merely conform to formal procedures as stipulated in the legislative system, but must also embody the substantive values and spirit of *Pancasila*. This includes the imperative to internalize core principles such as social justice, respect for human rights, and deliberative consensus in public decision-making. It also entails a normative obligation for judicial bodies, particularly the Constitutional Court to employ *Pancasila* as a primary standard in assessing the

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<sup>13</sup> Maria Farida, *Ilmu Perundang-Undangan : Jenis, Fungsi, Dan Materi Muatan* (Yogyakarta: Kanisius, 2007), 45.

<sup>14</sup> Anik Kunantiyorini, 'Pancasila Sebagai Sumber Segala Sumber Hukum', *Pena Jurnal Ilmu Pengetahuan Dan Teknologi* 26, no. 2 (2014).

<sup>15</sup> A. Hamid Attamimi, *Peranan Keputusan Presiden Republik Indonesia Dalam Penyelenggaraan Pemerintah Negara( Satu Studi Analisis Keputusan Presiden Yang Berfungsi Pengaturan Dalam Kurun Waktu Pelita I Pelita VI)* , Jakarta: Universitas Indonesia, (1990), 359.

constitutionality of statutes. Without the comprehensive application of Pancasila's values, law risks losing its orientation as an instrument for realizing the goals of the state and sustaining legal civilization. This aligns with the view that the values of Pancasila are the source of all sources of law in Indonesia: values that must not remain symbolic, but must be actively integrated into the Indonesia's positive legal system.<sup>16</sup>

As the legal ideal of the state, *Pancasila*, as articulated in the fourth paragraph of the Preamble to the 1945 Constitution, also contains the formulation of the national foundational ideology, beginning with the belief in the One and Only God, just and civilized humanity, the unity of Indonesia, democracy guided by the inner wisdom of deliberation and representation, and the realization of social justice for all the people of Indonesia. This formulation, known as *Pancasila*<sup>17</sup> serves as the normative foundation for state administration. From a historical perspective, *Pancasila* also constitutes the national identity, representing the consensus reached among the founding fathers regarding the *philosophische grondslag*, or philosophical basis of the state, during the preparations for Indonesia's independence. This foundation is also known as the "national creed," which guided the philosophical considerations in drafting the Constitution and served as the basis for formulating its substantive provisions<sup>18</sup>. Accordingly, placing *Pancasila* outside the hierarchy of laws and positioning it at the apex of the *staatsfundamentálnorm* category is appropriate. It affirms that *Pancasila* does not stand on the same level as the 1945 Constitution, despite the fact that its values are expressed in the text of the Preamble to the Constitution.

*Pancasila* as a *staatsfundamentálnorm* provides legitimacy not only of a historical and philosophical nature but also of a methodological character within Indonesia's legal system. Its designation as the foundational norm of the state namely a *staatsfundamentálnorm* or *grundnorm*, that stands outside and above the normative hierarchy of legislation serves as a legitimating foundation for the entire structure of national law system, including the Constitution itself. In this context, every legal norm, including the 1945 Constitution, is ideally a reflection of the substantive values embedded in *Pancasila*. Accordingly, *Pancasila*'s position must not be reduced to a mere component of the Preamble to the Constitution; rather, it must be understood as the ultimate source of all codified norms within the constitutional and legislative framework. For this reason, the conceptual separation of *Pancasila* from the Constitution is essential to avoid diminishing it into a purely declarative

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<sup>16</sup> Nofi Sri Utami and Kharisma Keysa Arsa Putri, 'Implementation of the Values of Pancasila in the Indonesian State System', *International Journal of Social Science Research and Review* 6, no. 3 (5 March 2023): 1–5, <https://doi.org/10.47814/ijssr.v6i3.1036>.

<sup>17</sup> Saafroedin Bahar, A.B Kusuma, and Nannie Hudawati, *Risalah Sidang Badan Penyelidik Usaha-Usaha Persiapan Kemerdekaan Indonesia (BPUPKI), Panitia Persiapan Kemerdekaan Indonesia (PPKI)*, Jakarta: Sekretariat Negara RI, (1945), 81.

<sup>18</sup> Mei Susanto, 'Kedudukan Dan Fungsi Pembukaan Undang-Undang Dasar 1945: Pembelajaran Dari Tren Global', *Jurnal Legislasi Indonesia* vol. 18, no. 2 (2021).184-203.

norm contained in the Preamble. Pancasila must be recognized as a living and operative norm—one that actively shapes the normative law making.

## 2. The Legal Standing of Pancasila in the Judicial Review

The constitutionality of a statute is assessed through a process commonly referred to as "constitutional review," which involves a series of actions aimed at examining the statute's compatibility with the Constitution. One such method of review is grounded in the theory of the hierarchy of norms (*Stufenbau theory*) introduced by Kelsen and further developed by Nawiasky. Through this hierarchical model, judicial review examines whether a statutory norm is consistent with the Constitution, specifically the 1945 Constitution of the Republic of Indonesia. The hierarchical structure of norms allows for the assessment of lower-level laws to ensure they do not conflict with or deviate from higher legal norms, on the premise that each lower norm must derive its authority from a higher norm,<sup>19</sup> ultimately reaching a foundational norm whose validity can no longer be traced, known as the *grundnorm* or *staatsfundamentalnorm*.

Based on this theory, *Pancasila* is regarded as the *grundnorm*, as it occupies the highest position in the normative hierarchy and is not formed by any superior norm. Within national life and the development of Indonesia's legal system, *Pancasila* transcends its function as a mere state symbol. It is the source of all sources of law, and therefore, the legislative process carried out by the competent regulatory institutions must be grounded in the values embodied in *Pancasila*. As a result, in the process of constitutional review, it must be understood that statutory norms are examined for their conformity with the Constitution, and the Constitution itself refers back to *Pancasila* as the highest norm.

In the context of judicial review, the Constitutional Court is tasked with examining and deciding whether a statute contradicts the Constitution through constitutional interpretation. In several judicial review decisions, the Constitutional Court has used *Pancasila* as a standard for evaluating the constitutionality of legislation. In Decision Number 140/PUU-VII/2009 concerning the Review of Law Number 1/PNPS/1965 on the Prevention of Religious Abuse and/or Defamation, the Court used *Pancasila* as its primary basis, emphasizing its role as the state ideology and affirming the interrelatedness of the values within the five principles of *Pancasila*. The Court's reasoning was further grounded in the fourth paragraph of the Preamble to the 1945 Constitution.<sup>20</sup>

This decision demonstrates that the Court has positioned *Pancasila* in two distinct ways. First, the Court referred to *Pancasila* as the state foundation, separate from the Constitution.

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<sup>19</sup> Mardian Wibowo, *Asas-Asas Pengujian Undang-Undang*, Depok: RajaGrafindo Persada, (2020), 62–63.

<sup>20</sup> Mahkamah Konstitusi RI, Putusan Mahkamah Konstitusi Nomor 140/PUU-VII/2009 tentang Pengujian Undang-Undang No.1/PNPS/Tahun 1965 (1965).

However, in subsequent reasoning, the Court conflated *Pancasila* with the Constitution by referencing the paragraph in the Preamble that embodies *Pancasila's* values.

Positioning *Pancasila* as part of the Constitution through its inclusion in the Preamble to the 1945 Constitution is relevant, given that judicial review is carried out by assessing the constitutionality of legal norms. The use of *Pancasila* as based on the Preamble aligns with the Constitutional Court's role in interpreting and safeguarding the Constitution. This view is reinforced by Jimly Asshiddiqie<sup>21</sup> who argued that the values of *Pancasila* embedded in the Preamble are an inseparable part of the Constitution. As previously noted, there exists a difference in perspective regarding the placement of the *staatsfundamentalnorm*, not only in *Pancasila*, but in the Preamble as a whole, which contains the historical background of independence, the national philosophy, state objectives, and foundational ideology (*philosophische grondslag*).

However, it must be acknowledged that as the nation's ideology, *Pancasila* should be understood as a foundational norm possessing meta-judicial status. Consequently, *Pancasila* should not be perceived merely as a segment of the fourth paragraph of the Preamble to the 1945 Constitution. As a *staatsfundamentalnorm*, *Pancasila* occupies a superior normative status and should not be reduced to merely a textual component of the Preamble. Instead, the conceptual basis of the Preamble itself is a reflection of the ideas derived from *Pancasila's* values.

This perspective underscores the importance of distinguishing between the existence of *Pancasila* as a meta-judicial norm of the state and the legal status of the Preamble to the 1945 Constitution as part of the written constitution. *Pancasila* did not originate from the Preamble; rather, it serves as the source of the ideas and values that informed the drafting of the Preamble itself. Consequently, reducing *Pancasila* to merely the content of the fourth paragraph of the Preamble risks diminishing its position as a transcendental norm that underlies the entire national legal system. In this context, understanding *Pancasila* as a *staatsfundamentalnorm* provides a theoretical foundation to view it not as an ordinary constitutional norm, but as a generative source that gives rise to and animates the norms of the Constitution itself. Therefore, in the interpretation of the Constitution and the judicial review of statutes, *Pancasila* must be treated as the highest and most fundamental normative standard—one that cannot be subordinated even to constitutional provisions. Such an approach is necessary to ensure that *Pancasila* is not merely symbolic or ideological, but functions effectively as a foundational norm within the structure of Indonesia's legal and constitutional order.

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<sup>21</sup> Jimly Asshiddiqie, *Ideologi, Pancasila Dan Konstitusi* (Jakarta: Mahkamah Konstitusi Republik Indonesia, 2020), 14.



Accordingly, in applying the normative hierarchy, the placement of *Pancasila* outside the legislative hierarchy and at the top of the *staatsfundamentalnorm* category affirms that *Pancasila* does not stand on the same level as the 1945 Constitution, even though its values are enshrined in the Preamble. Equating *Pancasila* with the Constitution is therefore inaccurate.<sup>22</sup> *Pancasila's* placement above the Constitution in the normative hierarchy confirms its distinct and superior status, even if the individual principles of *Pancasila* are textually included in the Preamble. This view is consistent with the opinion of Maria Farida, who stated that the core ideas of *Pancasila* as expressed in the Preamble make it the fundamental norm of the state, from which the articles of the Constitution are derived and which serves as the basis for the formation of the *Verfassungsnorm* or fundamental legal norms of the state.<sup>23</sup>

In light of the rules governing the formation of legislation, it follows, as a matter of legal logic, that the Constitutional Court, in exercising its authority of constitutional review, should interpret the Constitution in a broader sense. This includes not only examining laws based on the Constitution but also conducting a comprehensive review based on the values of *Pancasila* as the *grundnorm* or *staatsfundamentalnorm*.

#### D. Conclusion

*Pancasila*, within the hierarchy of norms, occupies the highest position in Indonesia's legal order as the *grundnorm* or *staatsfundamentalnorm*, thereby serving as the foundational basis for the formulation and interpretation of all norms within statutory regulations. In the practice of constitutional review, the Constitutional Court frequently employs *Pancasila* as a standard for assessing constitutionality, positioning it either as the foundational ideology of the state or as part of the Constitution as articulated in the Preamble to the 1945 Constitution. However, treating *Pancasila* as part of the Constitution risks diminishing its status as a *grundnorm*. Constitutional interpretation and judicial review based on *Pancasila* should be carried out while maintaining its status as the *grundnorm*, thereby ensuring that the review of legislation remains substantively rooted in the state's foundational principles and the ultimate source of all legal norms.

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<sup>22</sup> Dairani Dairani, 'Argumentasi Hukum Dan Upaya Mempertahankan Eksistensi Pancasila Sebagai Sumber Dari Segala Sumber Hukum Negara', *HUKMY: Jurnal Hukum* 1, no. 1 (30 April 2021): 19–34, <https://doi.org/10.35316/hukmy.2021.v1i1.19-34>; Ahmad Basarah, *Eksistensi Pancasila Sebagai Tolok Ukur Dalam Pengujian Undang-Undang Terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Di Mahkamah Konstitusi: Kajian Perspektif Filsafat Hukum Dan Ketatanegaraan* (Semarang: Universitas Diponegoro, 2016).

<sup>23</sup> Maria Farida, *Ilmu Perundang-Undangan : Jenis, Fungsi, Dan Materi Muatan*, 58–59.

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