

## Legal Morality of Constitutional Court Decision Number 90/PUU-XXI/2023 Based on Pancasila

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### ABSTRACT

Pancasila, as the source of legal morality of Indonesia, is used as the primary benchmark by Judges of the Constitutional Court in providing decision. The paper at hand explains that the constitutional court decision Number 90/PUU-XXI/2023 has moral weaknesses related to legal behaviour derived from Pancasila, specifically, First: Constitutional Court Decision had led to conflict and arising different views that potentially might cause disruption to Indonesia nation entity. Second: Constitutional Court Decision does not fully align with the Wisdom in Deliberation principle contained in the Fourth Principle of Pancasila. Third: Constitutional Court Judgment does not satisfy the sense of justice for Indonesian People. This paper employs a normative research method with a conceptual approach and a value-based approach.

## INTRODUCTION

The Constitutional Court, as the guardian of the constitution, exercises its authority to conduct material reviews of law that are substantively deemed inconsistent or in conflict with the 1945 Constitution of the Republic Indonesia with finality (Nabitatus Sa'adah, 2019). The Judgment issued by the Constitutional Court regarding the review of a law against the 1945 Constitution of the Republic Indonesia must be based on the integrity of the Judges, act impartially, and be grounded in the constitution and the constitutional order of Indonesia, rather than on personal interest or the public popularity of a decision.

The significance of Constitutional Court Decision Number 90/PUU-XXI/2023 to be discussed based on legal morality arises because, since its issuance which examines Article 169(q) of the Republic Indonesia Law Number 7 of 2017 concerning General Elections regarding the age requirements for the presidential and vice presidential candidates, has been deemed controversial (Kompas.com, 2023; News.detik.com, 2023) and led to the issuance of the Constitutional Court Honorary Council Decision Number 2/MKMK/L/11/2023 (Rizky Ramadhan & Wahyu Donri, 2024) and Number 5/MKMK/L/11/2023 (Indra Lorenly Nainggolan & Nina Zainab, 2024). Furthermore, various academics have taken attention toward the judgment by writing on the topic of Constitutional Court Decision Number 90/PUU-XXI/2023, which includes Endro Satoto and Zainal Arifin Hoesein, wrote about *"Understanding The Decision Of The Constitutional Court No: 90/PUU-XXI/2023 From A Civil Law And Common Law Perspective"*. The discussion highlights that the recent Indonesia Constitutional Court Judgment raises concerns regarding the legitimacy of the decisions and its potential impact on Indonesia's legal framework. Further analysis and observation are required (Endro Satoto & Zainal Arifin Hoesein, 2024). Maharani Trisni Zulaiha, & Tri Susilowati wrote about *"Public Policy Analysis Of The Implementation Of Constitutional Court Decision Number 90/PUU-XXI/2023 In The 2024 Election"*, discussing how Constitutional Court Decision Number 90/PUU-XXI/2023 viewed as a critical and highly controversial decision that exceeds the Constitutional Court's authority and such Decision should be addressed separately from the accompanying controversy and should be institutionalized constructively (Maharani Trisni Zulaiha, 2023). Rusmauliana Putri and Nuril Khasyi'in wrote about *"Juridical Review of The Problems of Constitutional Court Decision Number 90/PUU-XXI/2023"* with the conclusion, that any issue proven to be inconsistent with established law, render Constitutional Court Decision Number 90/PUU-XXI/2023 to be defective by law (Rusmauliana Putri & Nuril Khasyi'in, 2023). Guasman Tatawu and Adrian Tawai wrote about *"The Transformation Of The Role Of The Constitutional Court Of Indonesia: From Negative Legislature To Positive Legislature In The Context Of Judicial Review Authority (A Study Of Decision Number 90/PUU-XXI/2023)"* which discuss how the Constitutional Court, in carrying out its duties as a Negative Legislature, has transitioned into a Positive Legislature, a role typically associated with the Executive and Legislative branches (Guasman Tatawu & Adrian Tawai, 2023). Compared to the previous articles, the discussion in this writing differs as the

author focuses on legal morality based on Pancasila as the benchmark for Constitutional Court Decision Number 90/PUU-XXI/2023.

The importance of this discussion is evident when considering the legal authority of Constitutional Court Decisions, which are generally binding (M. Agus Maulidi, 2019) and each Decisions serves as the protection (Udiyo Basuki & Abdul Kadir Jaelani, 2019) of the Indonesian Constitution, uphold Pancasila principles, and protect constitutional rights of Indonesian citizens. The Constitutional Court's role in reviewing laws is crucial to prevent the creation of law that serves as tools of power in a *Machtsstaat* disguised as *Reshsstaat* (Ronald Janse, 2020) and it functions to preserve the integrity of the legal system as an expression of the will of people (Nur Fadilah Putri Sagala, and Irwansyah Irwansyah, 2023) to achieve people's sovereignty. Apart from that, the Constitutional Court Decision which reviews the law to improve the quality of Legislative Regulations in Indonesia (Ni Luh Gede Astariyani, Bagus Hermanto, Rosino da Cruz, and Fifiana Wisnaeni, 2023).

## **THEORETICAL REVIEW**

The Pancasila morality is the basic guideline of the state for social and state life that has been established by the Indonesian nation as a guide or guideline for the behavior of the Indonesian people. Pancasila as the moral of the nation and state is used as the foundation and source of all sources of law in Indonesia. The statement of Pancasila as the basis of philosophy (Philosophische Grondslag) by the Indonesian nation can be seen based on Bung Karno's Speech, the statement of the position of Pancasila as "Staat Fundamental Norm" as stated by Notonogoro, and the statement of the position of Pancasila as "Staatfundamental Norm" or "Grund Norm" and Pancasila is "Rechtsidee" as stated by A. Hamid. S. Attamimi (Bagus Hermanto dan Nyoman Mas Aryani, 2023).

According to I Dewa Gede Palguna, academically, Soekarno's view of Pancasila as the foundation of the state which is also positioned as the philosophical basis of the state has received much attention and further study (I Dewa Gede Palguna, 2019). The position of Pancasila in the opening of the 1945 Constitution of the Republic of Indonesia as a spiritual basis (philosophy) with the formulation: "based on the Almighty God, Just and Civilized Humanity, the Unity of Indonesia and Democracy led by the wisdom of Deliberation/Representation, and by realizing Social Justice for all Indonesian people". The inclusion of the five (5) Pancasila Principles in the opening of the 1945 Constitution of the Republic of Indonesia is the spiritual atmosphere of the 1945 Constitution of the Republic of Indonesia to realize the legal ideals (Rechtsidee) which control the basic law of the state, both written law (Constitution) and unwritten law. (Notonogoro, 1988).

The position of Pancasila can be analyzed based on the theory of the Level of State Legal Norms (Die theorie von stufenordnung der rechtsnormen) from Hans Nawiasky as a development of Hans Kelsen's theory of the Level of Norms (stufentheorie) including: 1. fundamental state norms (staats fundamnetal norm); 2. basic state rules or basic state rules (staats grundgesetz);

3. formal laws (Formell Gesetz); 4. implementing rules and autonomous rules (Verordnung & Autonome Satzung) (Gazali, 2022).

Based on Hans Nawiasky's theory, Pancasila is positioned as the fundamental norm of the state (staats fundamental norm) in the Indonesian legal system. Pancasila as the fundamental norm of the state (staats fundamental norm) occupies the highest position, namely as the basic norm (state grundnorm). According Article 2 Regulation of the Pancasila Ideology Development Agency of the Republic of Indonesia Number 4 of 2022 concerning Pancasila Value Indicators, Pancasila as the fundamental norm of the state (staats fundamental norm) as the basic norm (state grundnorm) is positioned as an indicator used as a guideline in the formation of policies and Legislation as well as the formation of Laws.

## **METHODOLOGY**

This paper employs a normative research method that positions Pancasila as the primary indicator and benchmark for legal morality in Constitutional Court Decision Number 90/PUU-XXI/2023 as the object of study. The approach used in this paper consists of conceptual and value approaches. The legal materials are collected through a literature review sourced from legal books, journals, and dictionaries.

## **RESULTS**

The Constitutional Court Decision Number 90/PUU-XXI/2023 is evaluated based on legal morality using the five principles of Pancasila as benchmarks. It is determined that Constitutional Court Decision Number 90/PUU-XXI/2023 aligns with the First and Second Principles of Pancasila, yet diverges from the Third, Fourth, and Fifth Principles. Its incongruity with the Third Principle stems from the polemics and divergent opinions. Moreover, Constitutional Court Decision Number 90/PUU-XXI/2023 fails to adhere to the Fourth Principle of Pancasila as it lacks manifestation of Wisdom in the judicial deliberation regarding the minimum age requirements for Presidential and Vice-Presidential candidates. Furthermore, Constitutional Court Decision Number 90/PUU-XXI/2023 is not in line with the Fifth Principle of Pancasila, as it had incited controversy within society.

## **DISCUSSION**

### ***Measuring the Legal Morality of Constitutional Number 90/PUU-XXI/2023 Based on Pancasila.***

The Constitutional Court Decision Number 90/PUU-XXI/2023 regarding the main issue of Article 169 (q) of the Republic of Indonesia Law Number 7 of 2017 concerning General Elections, which regulates the minimum age requirement of 40 (forty) years for presidential and vice-presidential candidates, is one of the forms of law existing in Indonesia. The Fifth Principles of Pancasila should be the primary benchmark indicator as the basis for the Court's Decision since the principles embody moral values as faithfulness, equality, unity, consensus, and prosperity, and represents the moral foundation upon which

decisions should be made (I Dewa Gede Palguna. & Bima Kumara Dwi Atmaja, 2023).

The benchmark of the first principle of Pancasila “Belief in the One and Only God” is rooted in the value of divinity, which entails faith and belief in the power and blessings bestowed by the Almighty in every legal action, regardless of its implications. The value of divinity reflects sanctity (Aulia Nur Hakim & Dinie Anggraeni Dewi, 2021), where sanctity does not necessarily have to be religious, but rather signifies the most esteemed value (Regiani, Ega, and Dinie Anggraenie Dewi, 2021). Similarly, Constitutional Court Decision Number 90/PUU-XXI/2023, as a legal action, has been blessed by the Almighty God, regardless of its implications. Thus, the first principle of Pancasila serves as the basis for the Constitutional Court Decision Number 90/PUU-XXI/2023 since in all judicial decisions in Indonesia including the Constitutional Court Decision Number 90/PUU-XXI/2023, it is written “For the sake of justice based on the belief in Almighty God”. Based on the Author’s view, this indicates that the presence of Constitutional Court Decision Number 90/PUU-XXI/2023 is a blessing and a form of destiny bestowed by the Almighty upon everyone, whether directly or indirectly affected. Therefore, the presence of Constitutional Court Decision Number 90/PUU-XXI/2023 must be respected and adhered to.

The benchmark based on the second principle of Pancasila, “A Just and Civilized Humanity” in Constitutional Court Decision Number 90/PUU-XXI/2023. This indicates that the decision falls under the authority of the Constitutional Court. The authority of the Constitutional Court stems from the 1945 Constitution of the Republic of Indonesia (I Gusti Ayu Ketut Rachmi Handayani, Lego Karjoko & Abdul Kadir Jaelani, 2019), which has been amended four times (Kurnia Rizky, Dede Lutpi, and Ujang Sutan Malik, 2022). Article 24, paragraph (1) of the 1945 Constitution clarifies the conduct and responsibility of the institution issuing this decision.

Granting Almas Tsaqib Birru Re A, as a citizen seeking justice (Najwa Maulida Sabrina & Thalia Aurora Patty, 2023), the chance to obtain his constitutional rights through the Constitutional Court, clearly listing his identity and that of his legal counsel, shows respect for human values. Additionally, Constitutional Court Decision Number 90/PUU-XXI/2023 exemplifies the Second Principle of Pancasila by outlining the petitioner's legal standing, including his qualifications and the constitutional harm he has suffered due to Article 169 (q) of Law Number 7 of 2017 on General Elections. Allowing the petitioner to present his reasons for the petition, the petitum, and the opportunity to provide evidence to support his claims aligns with the values of the Second Principle of Pancasila.

The benchmark based on the Third Principle of Pancasila, “Persatuan Indonesia” requires that all legal products in Indonesia, including Constitutional Court Decision Number 90/PUU-XXI/2023, should promote unity and create a common bond among all Indonesian nations. Unfortunately, this decision led to dissenting opinions among the Constitutional Court judges (Yahya Lutfi Kurniawan, Cleo Farrel Piyantoni, Ruchyat Angga Permana & Niluh Ketut Candra Kasih, 2023). Although such dissent is legally permitted, as

regulated by law, it does not fully align with the goal of fostering unity and to give independence of judges to deliver high-quality decisions (Muhammad Rusdi, 2019). However, this resulted in different opinions amongst Indonesian nation, as the decision was deemed to be full of personal interest, where initially, the lawsuit against Article 169 (q) of the Law Number 2017 concerning General Elections was rejected. Yet, a new lawsuit filed on September 13 2023, was immediately accepted. Additionally, the involvement of the Chief Justice of the Constitutional Court in discussing and deciding both a quo cases, especially Case Number 90/PUU-XXI/2023, which was ruled “partially granted,” led to perceptions of irregularities in Constitutional Court Decision Number 90/PUU-XXI/2023 (Ahmad Mudatsir & Samsuri, 2023).

The Constitutional Court Decision Number 90/PUU-XXI/2023, which is final, has permanent legal force, applies generally, and is binding. Therefore, the validity of Constitutional Court Decision Number 90/PUU-XXI/2023 must be respected and adhered to in accordance with the legal principle of *Res Judicata Pro Veritate Habetur* to maintain the unity of Indonesia (Riska Ari Amalia & M Saoki Oktava, 2021). Although respecting Constitutional Court Decision Number 90/PUU-XXI/2023 is in line with the principle of *Res Judicata Pro Veritate Habetur*, the impact of this decision has led to public controversy and differing opinions within society. If not handled wisely, this could potentially lead to divisions within the Indonesian nation.

The benchmark based on the Fourth Pillar of Pancasila, “Democracy Led by the Wisdom of the Representative of the People” indicates that leaders must embody and prioritize wisdom in exercising democracy. Therefore, Constitutional Court Decision Number 90/PUU-XXI/2023 must also consider the context of this Fourth Principle of Pancasila as the basis for analysis, as it relates to Article 169 (q) of the Republic of Indonesia Law Number 7 of 2017 concerning General Elections. This article regulates that candidates must be at least 40 years old or have previously/currently held an elected position through general elections, including regional elections.

The addition of “or have previously/currently held an elected position through general elections, including regional elections” in Constitutional Court Decision Number 90/PUU-XXI/2023 could undermine the fourth principle of Pancasila. The phrase “previously/currently” could imply that age is not a measure of eligibility as long as the individual has held an elected position, making it difficult to discern the wisdom of such a leader. Moreover, the phrase “previously/currently” can lead to multiple interpretations. For instance, an individual who has held an elected position for as little as one month would meet the requirement. This could affect the professional level of the leader, thereby impacting the wisdom expected of them, especially concerning Indonesia's future. To address this issue, the text should specify that the individual must have held an elected position for a full term or be currently serving a second term in an elected position through general elections, including regional elections.

In the circumstance that they win the forthcoming general elections, the president and vice president will represent Indonesia as leaders. Thus, before

taking into account the democratic system for choosing leaders, the Fourth Principle of Pancasila states that wisdom should be a leader's most important attribute. Rather than being limited to age or having held elected office in the past or present, especially in regional elections, wisdom ought to be the primary qualification for candidates running for president and vice president in Indonesia. Rather, before assuming the responsibilities of President or Vice President to lead the Indonesian nation, candidates for president and vice president should be chosen in Indonesia based on their accomplishments, which should come from both academic knowledge and real-world experience.

The term "Hikmat" is also interpreted as policy (wisdom) and supernatural power (Tesa Maulana & Tarto, 2022). In Hebrew, the word חוכמה (khokma) which means "wisdom". Additionally, the same word also rise to the word "hakam" meaning "wisdom". Both words complement each other to produce several other words that consist of wise elements and prominent rules specifically (Sri Wahyuni Kusradi, 2016). In Arabic, according to several dictionaries such as *al-Munjid*, *al-Mu'jam al-Wasiith* and *Min Washooyaa al-Qur'an al-Kariim*, "*al-hikmah*" means: knowledge of the essence of everything; knowledge of all that is important with the most important knowledge; restraining oneself during anger; discussions about experiences and experiments that correspond to the reality of truth; everything that is concise but noble and profound in meaning; thinking in all matters; knowledge of the causes of everything or Causality, synonymous with "philosophy," "science," "profound understanding," "justice," and "gentleness" (Muhammad Dawam Shaleh, 2020).

In Pancasila, wisdom is characterized by a mindset grounded in rational thinking (Nuriyanto, 2015), while always considering the unity and integrity of the nation. The interests of the people will be safeguarded through awareness, honesty, and responsibility, driven by good intentions in accordance with pure conscience. Therefore, a leader that embodies wisdom directs towards a professional leadership demeanor through the framework and guidance of deliberation/representation. In essence, the Fourth Principle of Pancasila underlines a representative democracy system led by professional and integrity-driven individuals through a consultative system or government by discussion.

In assessing the wisdom of a leader, can be seen through the perspective of Mr. Moh. Yamin speech on May 29, 1945, where he articulated three foundational principles: 1) Deliberation and consensus through representation; 2) Rationalism; and 3) Additionally, Mr. Moh. Yamin also emphasized the belief in the Almighty God as a cornerstone of Indonesian civilization (Yusdiyanto, 2017). From the perspective of Rationalism, when evaluating leaders such as the President and Vice President, they should possess rational thinking. Rationalism refers to deep philosophical thought grounded in logic and intellect, enabling individuals to measure that intellectual capacity exists within humans to seek and respond to truth (Meisakh Nur Anugrah & Usman Radiana, 2022).

Wisdom is measured through the theory of “balance of wisdom” proposed by Sternberg. According to Sternberg, wisdom involves the successful utilization of intelligence, creativity, and knowledge, mediated by values, to (a) strive for the common good, (b) by balancing intrapersonal (personal), interpersonal (others), and extra-personal (organizational, institutional, and/or spiritual) interests in both the short and long term to adapt, shape, and select environments. Furthermore, according to Sternberg, wisdom is always enacted within a context, as actions that balance intrapersonal, interpersonal, and extra-personal interests to achieve the common good can only be understood within the context in which these actions are taken (Kaili Zhang, Juan Shi, Fengyan Wang, and Michel Ferrari, 2023).

Firstly, making wise decisions doesn't just rely on overt intelligence and explicit knowledge; it often draws upon tacit or implicit knowledge gained through experience (Wioleta Kucharska & G. Scott Erickson, 2023). Secondly, this relates to a person's sense of identity and may encompass desires for self-actualization, popularity, prestige, power, prosperity, or pleasure. Interpersonal interests involve other individuals, not only relating to one's self-esteem but also desired relationships with others. Extra-personal interests involve concerns that affect organizations, communities, states, or broader environments (Renuka Raj Singh, 2022). Alongside various interests, the consequences of each decision are also evaluated to balance short-term and long-term objectives. Thirdly, in the theory of balanced wisdom, doesn't imply that every interest, consequence, or response is given equal weight. Such “weighting” is relative and determined by how much a particular alternative contributes to achieving the common good. However, there is no clear, universally accepted definition of the “common good”. Much of wisdom involves identifying the common good and persuading others of its suitability (Sandra Ocasio Hansson, Anita Björklund Carlstedt & Anne Le Morville, 2022).

In Sternberg's conclusion, he emphasizes that an effective leader requires both creative skills and dispositions to generate ideas, academic skills and dispositions to judge whether those ideas are sound, practical skills and dispositions to make those ideas work and convince others of their value, and wisdom-based skills and dispositions to ensure that these ideas benefit the common good rather than solely serving the leader's interests or possibly those of their family members or followers. An uncreative leader will fail to upfront a recent and hard situation, such as a new and unexpected source of hostility. A leader who lacks academic intelligence will not be able to decide whether his ideas can be implemented, and a leader who lacks practical intelligence will not be able to implement his ideas effectively (Robert J. Sternberg, 2005). An unwise leader may be successful in implementing his ideas, but ultimately implement ideas that conflict with the best interests of the people he leads (Ni Putu Depi Yulia Peramesti & Dedi Kusmana, 2018). Based on the aforementioned analysis, the writer provides an idea regarding the measure of Wisdom: a person who can be used as a requirement in determining someone to be a candidate for President and a candidate for Vice President. To measure a person's wisdom, it can be done using a cognitive approach.

The first indicator is a person's academic skills (educational process) which can be measured through the educational level of the Presidential or Vice Presidential candidate. Only high school graduates or equivalent whose form of evaluation does not produce scientific work, instead they are in the form of an evaluation of the education system by the Ministry at the primary and secondary education levels through a minimum assessment, character surveys, and study environment surveys (Ade Raini, 2022). Thus, if the requirement used is only graduated from high school or its equivalent, it can be said that this does not fulfill the depth of wisdom and academic experience needed for Presidential or Vice-Presidential candidates according to the Fourth Principle of Pancasila.

The next level of education includes Bachelor's or Applied Bachelor's, Master's or Applied Master's, and Doctoral degrees, which require the completion of academic work. At the Bachelor's or Applied Bachelor's level, academic skills are demonstrated through the completion of a final project such as an undergraduate thesis, prototype, project, or similar final assignment, either individually or in groups. This may also involve project-based curriculum or similar learning approaches and assessments that demonstrate the achievement of graduate competencies. At the Master's or Applied Master's level, academic skills are demonstrated through the completion of a final project in the form of a Master thesis, prototype, project, or similar final assignment. Meanwhile, at the Doctoral or Applied Doctoral level, academic skills are demonstrated through the completion of a final project in the form of a dissertation, prototype, project, or similar final assignment.

The difference between academic works such as Undergraduate Thesis, Master Thesis, and Dissertation can be seen by how deep the analysis is. In a Undergraduate Thesis, the focus tends to be on issues related to the application of knowledge, whereas a Master Thesis should lean towards the development of knowledge, and a Dissertation is directed towards the discovery and innovation of new scientific knowledge (Yulia Indahri, 2021). Undergraduate thesis can use information from newspaper, magazine, workshop, or fieldwork. While Master Thesis, beside the aforementioned sources, also identified the issue based on the theoretical and practical knowledge. On the other hand, Dissertation must aim for new scholarly development. In writing an undergraduate thesis, a variety of statistical methods (Mohammad Mulyadi, 2013) are typically used, ranging from qualitative tests, associative hypothesis testing (Reza Akbar, U. Sulia Sukmawati, & Khairul Katsirin, 2024), regression, non-parametric statistical tests, correlation, to difference testing. For writing a master thesis, more advanced qualitative tests such as Structural Equation Modeling (SEM) (Muhammad Husin, Ganefri, Ambiyar, & Krismadinata, 2022), multivariate analysis, path analysis, and advanced multivariate methods are utilized (Yulianto, Namira Robihaningrum, & Bella Dhea Elinda, 2019). While the statistical methods used in a dissertation are almost the same as those in a thesis, the scope is naturally more complex and substantial. In the making and examination process, undergraduate thesis is supervised and examined by at least a Master's degree-holding lecturer. For the master thesis, it is supervised

by a lecturer holding at least a Doctorate degree. As for the Dissertation process, it is supervised and examined by a lecturer holding at least a Doctorate or Professor title with experience in the relevant field. Based on the definition, the writer views that the minimum educational requirement for a Presidential or Vice Presidential Candidate should be at the Doctorate or Applied Doctorate level, or have obtained the title of Professor. The reason is, besides their academic work, when studying for a Doctorate or Applied Doctorate, A Presidential or Vice Presidential Candidate learns about philosophical thinking. This means they learn to analyze problems deeply and wisely. So, when making policies, they focus on the best way to ensure the well-being of the People and the State continues.

The second indicator is the aspect of practical experience, which is related to having a lot of experience. It is important to assist the experience of Presidential and Vice Presidential Candidates in Indonesia to determine wisdom and prudence based on the Fourth Principle of Pancasila. This ensures that when they become leaders of the Indonesian nation as President and Vice President, they already have the confidence to lead the people and the country. Additionally, in forming policies based on their prior experience before becoming President or Vice President, they understand the concept of the policy direction that will be formulated and implemented for the welfare of all Indonesian nations and the interests of the country.

Measuring someone's experience can be done using indicators such as the duration of their work, their level of knowledge and skills, and their mastery of tasks and equipment (Prima Sari, Pascariati Kasman & Hapzi Ali, 2022). To measure the experience of Presidential and Vice Presidential candidates, one can look at the length or duration of their leadership, which involves completing at least one term as a leader in a region or an institution equivalent to a ministry. Additionally, assessing experienced Presidential and Vice Presidential candidates can be based on their level of knowledge regarding legal products and policies issued during their leadership in a region or an institution equivalent to a ministry, which should not have had negative impacts on society or the country. Furthermore, measuring the experience of Presidential and Vice Presidential candidates can involve evaluating their mastery of tasks and equipment, which refers to the actions and attitudes demonstrated during their tenure as leaders in a region or an institution equivalent to a ministry, whether they were undertaken for the benefit of the people, the country, or for personal or group interests.

The benchmark based on the Fifth Principle of Pancasila, which is "Social Justice for All Indonesian People", indicates that every legal product, especially Constitutional Court Decision Number 90/PUU-XXI/2023, provides a sense of justice to all Indonesian citizens because fundamentally, every judicial decision in Indonesia embodies justice itself. In general, when discussing about justice, researchers or legal observes often rely on Aristoteles and Jhon Rawl perspectives. However, does the Indonesian nation lack an indigenous concept of justice, thereby necessitating a reliance on Western notions? Consequently,

this article endeavors to elucidate a conception of justice that harmonizes with the ethos of the Indonesian nation as enshrined in Pancasila.

The word “justice” implies characteristics associated with fair actions or treatment (equitable, impartial, unbiased, siding with what is right, adhering to truth, justifiable, nondiscriminatory) (Roro Fatihin, 2017). From the concept found in the philosophical beliefs of the Indonesian nation, expressed through the phrase “*lila legawa*” known in Javanese and Balinese beliefs, it signifies accepting sincerely (Pri Okta Priani, Purwadi Purwadi, and Mei Fita Asri Untari, 2021). From the aforementioned interpretation, the writer argues that justice stemming from the Indonesian nation relates to the disposition to accept with sincerity, not merely from equal distribution or perceived severity, but rather from its proportionality.

Each decision issued by the Judges is made by principle of “Demi Keadilan Berdasarkan Ketuhanan Yang Maha Esa”. Therefore, every decision is a manifestation of justice desired by the Almighty God. According to the author’s viewpoint, the judge’s decision is itself a form of justice because it is based on the will and blessing of the Almighty God. This manifestation is genuinely accepted by those directly affected by the ruling as well as those indirectly impacted. This implies that every decision made by a judge should not create issues that hurt the feelings of anyone, whether directly or indirectly affected. This is because the essence of a judge's decision is to resolve conflicts, not to create new ones.

The effects of Constitutional Court Ruling Number 90/PUU-XXI/2023 reveals that it sparked new controversies. Among these were the issuance of ethical and behavioral sanctions against certain Constitutional Court Judges involved in the decision-making process. Moreover, the ruling raised suspicions of pragmatic political interests (Haru Permadi & Oppy Pramudya Wisnu Wardhana, 2023) and considered as a setback of democracy in Indonesia. Another impact of such issuance is the concern expressed by seven former Constitutional Court Judges regarding the erosion of dignity and public trust in the Constitutional Court (Kompas.id, 2023). Criticism has been directed at Judge Anwar Usman, the chief of Constitutional Court, for the issuance of Constitutional Court Ruling Number 90/PUU-XXI/2023 by 15 professors and lecturers of constitutional and administrative law who are members of the Constitutional and Administrative Law Society (CALs) (CNN Indonesia, 2023). Additionally, there have been student demonstrations in response to the issuance of Constitutional Court Ruling Number 90/PUU-XXI/2023 (News.Republika.com, 2023; News. Detik.com 2023; Jpnn.com, 2023). Considering the events that have unfolded following the issuance of Constitutional Court Ruling Number 90/PUU-XXI/2023, the writer opines that the decision has not been genuinely accepted by certain segments of society and has sparked public controversy in Indonesia, thus Constitutional Court Ruling Number 90/PUU-XXI/2023 does not reflect social justice for the entire Indonesian nation.

## CONCLUSIONS AND RECOMMENDATIONS

The legal morality of Pancasila must be used as a benchmark in every decision of the Constitutional Court Judge in every case. In the Constitutional Court Decision Number 90/PUU-XXI/2023 there is a discrepancy with the legal morality of Pancasila as the source of all sources of law in Indonesia, namely the discrepancy in the third, fourth and fifth principles.

## FURTHER STUDY

This study only focuses on legal morality as a measuring tool for the Constitutional Court Decision Number 90/PUU-XXI/2023, further research can examine the Constitutional Court Decision using the five Pancasila principles as an indicator.

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