



URGENCY, LEGAL FORM AND ENFORCEMENT, SYSTEMATIC PRINCIPLES OF COUNTRY

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Abstract: *Outlines of State Policy (GBHN) are one of the central issues that are currently being discussed in the state administration. In various occasions of socialization of the four pillars of the state by the People's Consultative Assembly (MPR), the discourse on reviving the GBHN as a guideline for national development planning became one of the materials. This is inseparable from Recommendation No. 2 of MPR RI Decree No. 4/MPR/2014 concerning Recommendation of MPR RI for 2009-2014 term of office. The results of a careful study in responding to polemics bring back the Outline of State Policy (GBHN) as recommended by the MPR RI for the 2014-2019 period which involves the participation of the people throughout Indonesia by involving various components as the direction of development that they feel. The substance in the Main Principles of State Policy only contains strategic policies that will become a reference for the preparation of development policies by the government.*

Keywords: *MPR, Outlines of State Policy, Indonesian State Administration System*

I. INTRODUCTION

The paradigm of the Indonesian Legal System is essentially a system, which consists of elements or parts that are interrelated and related to each other to achieve goals based on the 1945 Constitution and imbued with the Pancasila philosophy.¹ Indonesian law does not merely contain norms that have horizontal or transcendental dimensions, but must be the accumulation of both dimensions at the same time. All activities of the presence of law in Indonesia, both through national legislation programs and the appointment of laws for the regulation and order of social interaction, must place these two dimensions as colors so that Indonesian law that is born will always be lived as something that must be accountable to God.

The paradigm of the linkage of national development which involves all aspects of life with the anticipation of the legal dimension is a necessity. Development requires the transformation of society from a condition to a better condition.

¹ Ahmad Muliadi, *Political Law*, Padang, Permata Academy, Cet. I, p. 46.

Humans as the core of development activities determine how the faucet of transformation is an effort to operationalize the transformation on purpose. Both of these concepts-transformation and operationalization-start from normative concepts that will guide, regulate, and discipline their realization.²

The national legal system is expected to guarantee the upholding of the rule of law and human rights based on justice and truth (modern legal system). A modern legal system must be a good law, and in accordance with the conditions of society. Laws are made in accordance with predetermined procedures, and must also be understood or understood by the community as a whole, with the aim that the law can really influence the behavior of citizens.³

So the periodization after August 17, 1945, ideally the applicable legal politics is national legal politics, meaning that there has been a legal unification (applicability of one legal system throughout the territory of Indonesia), because the national legal system must be built based on and to strengthen the principles of the Proclamation, Pancasila and 1945 Constitution. Outlines of State Policy (GBHN) are one of the central issues that are currently being discussed in the state administration. In various occasions of socialization of the four pillars of the state by the People's Consultative Assembly (MPR), the discourse on reviving the GBHN as a guideline for national development planning became one of the materials. This is inseparable from Recommendation No. 2 of MPR RI Decree No. 4/MPR/2014 concerning Recommendation of MPR RI for 2009-2014 term of office.

The results of a careful study in responding to the polemic of bringing back the Outline of State Policy (GBHN) as recommended by the MPR RI for the period 2014-2019 must involve people's participation throughout Indonesia by involving various components, both university lecturers and students and even the wider community including districts/cities. to sub-districts and villages to hear directly the input as well as the conditions and directions of development that they feel. The substance in the Main Principles of State Policy only contains strategic policies that will become a reference for the preparation of development policies by the government. However, this does not reduce the president's creative space to translate it into development programs.

We know that the issue of reviving the GBHN was widespread, where in the 1945 Constitution of the Republic of Indonesia (UUD NRI) before the amendment (original) became one of the powers of the MPR (Article 3) but after the Amendment to the 1945 Constitution of the Republic of Indonesia, this authority was abolished. . Then the discourse was echoed by the 5th President of the Republic of Indonesia as well as the General Chair of the PDI-P Megawati Soekarnoputri at the PDI-P National Working Meeting, on January 10-12 2016 in

² Abdul Gani Abdullah, *Introduction to the Compilation of Islamic Law in Indonesian Legal Order*, Gema Insani Press, Jakarta, Cet. I, p. 12

³ Ahmad Muliadi, Op. Cit, p. 47

Jakarta where it was delivered in a speech that satirized the current development planning model which was likened to a poco- poco.⁴

Such conditions are caused by the Indonesian state leadership model which currently uses a presidential system, where the President and Vice President are directly elected by the people in general elections, making the elected President and Vice President busy translating the visions and missions and political promises made during the general election, without later attention to sustainable development. According to Mega, the idea of direct elections being introduced to bring the people closer to their prospective leaders is a positive thing in democracy. However, when there is a change of leader, the policies that are born in development also change. This is a weakness that threatens sustainable national development. On this criticism,

Finally, there was a cross of opinion against Megawati's criticism. However, as the current leader of the ruling party, the idea has received wide acceptance from various elements of society, especially state institutions. One of the interesting responses was written by Yudi Latif, where in his writings he used a majoritarian democracy vs consensus democracy approach from the well-known thinker Arend Lijphart.⁵ Through this approach, majoritarian democracy is not compatible for Indonesia because it will threaten minority groups. Majoritarian democracy is only suitable if the government can be won alternately by both the majority and the minority, which is only possible in countries that follow a two-party system such as America, Britain, New Zealand and Barbados. In addition, majoritarian democracy is also suitable for a country with a homogeneous society. These two conditions do not exist in Indonesia, so the majoritarian model of democracy is considered unsuitable to be applied in Indonesia.

If we look at the study of State Administrative Law, it has long been introduced the main principle as the basis for the administration of government, namely "besturen is planen" which means "to govern is to plan". This principle emphasizes the urgency of the importance of the meaning of a plan in the administration of government.⁶ Referring to the development system implemented in Indonesia before the amendment to the 1945 Constitution (UUD), this principle was implemented through the Outlines of State Policy (GBHN) established by the People's Consultative Assembly (MPR).⁷ However, after the change, especially after

⁴(<http://national.kompas.com/read/2016/01/10/16053561,Kritik.Demokrasi.Indonesia.Megawati.Sebut.like.Pocopoco>, accessed 24 May 2016

⁵ Kompas Daily 12 February 2016 entitled GBHN Social Basis

⁶ W. Riawan Tjandra, Potential Distortion of GBHN Revitalization, Proceedings of State Administration Focus Group Discussion: Reformulation of the National Development Planning System of the GBHN Model and Procedures for Amendment to the 1945 Constitution of the Republic of Indonesia.

⁷Talking about the duties and authorities of the MPR in establishing the GBHN before the third amendment to the 1945 Constitution was made, the arrangement for this is contained in Article 3 of the 1945 Constitution which coincides with the stipulation of the Constitution. In full, Article 3 of the 1945 Constitution states: "The People's Consultative Assembly stipulates the Constitution and the Outlines of the State Policy".

the third amendment, this principle is implemented through a national development planning system made by the President and is based on a planning system that is divided into time categories and hierarchies. Planning based on these time categories consists of long-term planning that is framed through the Long-Term Development Plan (RPJP).⁸, National Medium-Term Development Plan (RPJMN), and Government Work Plans up to Ministries/Institutions Work Plans.⁹

We can understand that in general, the GBHN was interpreted as the state's direction in broad outlines as a statement of the people's will which had the ideal basis of Pancasila and the 1945 Constitution as the constitutional basis. In addition to the general meaning, it turns out that GBHN can also be seen in a formal and material sense. In a formal sense, the GBHN is defined as one of the tasks of the MPR according to Article 3 of the 1945 Constitution. Here, legally, the GBHN is only the main points of the steps that the government must implement. While the GBHN in a material sense is the authority of the MPR according to Article 1 paragraph (2) of the 1945 Constitution. Here, the GBHN must truly represent the will of the people as a whole. Because the MPR holds the sovereignty of the people, its power is not limited considering the dynamics of society, once every five years, the MPR shows everything that happened and all the currents at that time and determines what courses to use in the future.¹⁰

Therefore, the GBHN for the people on the one hand is a program in order to improve the welfare and intelligence of the people in the direction of achieving the realization of a just and prosperous society. So, for a President, the GBHN is a mandate from the people that he has been able to carry out honestly, purely and consistently. The GBHN can serve as a guarantee that the President's accountability to the MPR can be assessed based on the implementation of the GBHN itself.

On the other hand, from the MPR's point of view, the GBHN is a mandate based on the people and its implementation is left to the President. The president does not need to develop his own program. So, it is enough for the President to carry out the program compiled by the MPR in the form of the GBHN.¹¹ Thus, the GBHN is a binding assessment tool to assess the accountability of the President, both at the end of his presidential term and at any time if deemed necessary. Then, in that way, from the DPR's point of view, the GBHN became the people's mandate, which

⁸Currently regulated through Law Number 17 of 2007 concerning the National Long-Term Development Plan of 2005-2025

⁹Moh. Kusnardi-Bintan R. Saragih, *Structure of the Division of Power according to the 1945 Constitutional System*, Gramedia, Jakarta, 1978, p. 56 in Budiman B. Sagala, *Duties and Authorities of the MPR in Indonesia*, Ghalia Indonesia, First Printing, Jakarta, p. 96-97.

¹⁰See the explanation of the 1945 Constitution of the Republic of Indonesia

¹¹However, in practice, it seems to be a convention that the Government is always submitting the Draft GBHN to the Assembly. Why didn't the MPR make its own Draft GBHN, then it was determined and then assigned/assigned to the government as the executive body to implement it? So far, it seems that the MPR only stipulates the defense, whose draft GBHN comes from the executive. Can it really be? This became a debate between writers in the mid-1977's. See Kompas daily, 7 April and 1 June 1977. In Budiman B. Sagala, *supra* note no. 5, at 99.

he himself had participated in establishing. This is where the DPR views that the GBHN is a means of controlling the actions and policies of the President/Mandate of the MPR. Thus, the GBHN also serves as the basis for controlling all the policies of the President, the holder of the mandate.¹²

Although the author said at the beginning that the GBHN is no longer used in the Indonesian state administration system, in recent years the discourse about the importance of the GBHN has resurfaced.¹¹ Several times, the MPR, through the MPR Review Board, conducted activities with legal academics to examine how important it was that the return of the GBHN was realized. From the many studies conducted, it seems as if the MPR Review Board has considered that the GBHN is an important thing to be realized. This can be seen at least by the formation of an ad-hoc committee tasked with preparing the main points of state policy through the 2018 MPR annual plenary meeting.¹³ Departing from this discourse, this paper will discuss the reasons for the urgency of the GBHN in the Indonesian constitutional system and how the authority to form the GBHN should be carried out if its formation becomes important.

II. DISCUSSION

Historical Aspects of the Birth of Institutions RI Regional Representative Council

Amendments to the 1945 Constitution have changed the structure of parliament. One of the new institutions that emerged through the third amendment to the 1945 Constitution was the DPD through the Third Amendment to the 1945 Constitution. The idea of forming the DPD was to strengthen checks and balances and restructure parliament to become bicameral. The basic difference between DPR and DPD lies in the nature of the interests represented by each. But in fact, the DPD has been born, but is not fully present yet. DPD can be considered between being and not being. Therefore, maintaining the existence of the DPD with its current functions and authorities is useless (inefficiency). With this fact, there are only two options for the DPD, the DPD is dissolved or the DPD is strengthened. Related to these conditions, there are three main problems (1), What is the actual constitutional position of the DPD in the post-amendment 1945 Constitution? (2), What is the urgency of strengthening the functions of the Indonesian Regional Representative Council in the Indonesian constitutional system? And (3), what are the steps to strengthen the capacity and legislative function of the DPD?. To answer that, it will take time for us to see how the DPD RI plays a role in accordance with

¹²The discourse on the importance of the GBHN was heard by PDIP in the National Working Meeting held in early 2016. Through the Annual Plenary Session on August 16, 2016, the Chair of the MPR RI implied that the MPR would institutionally follow up on the results of the study by the MPR Review Board which led to the fifth amendment to the Constitution of the Republic of Indonesia. 1945.

¹³The agreement to form an ad-hoc committee to prepare the main materials of the state policy was previously decided at a joint MPR meeting on July 24 2018. The ad-hoc committee consists of 45 members from all factions in the DPR and DPD groups and is chaired by Ahmad Basarah. . Read:<https://www.cnnindonesia.com/nasional/20180816113421-32-322723/dua-pانيتia-ad-hoc-to-discuss-gbhn-and-tap-mpr-formed>, access on May 4, 2019

the structure and main functions. The constitutional position of the DPD is contained in Articles 22C and 22D of the 1945 Constitution, which states that the idea of forming a DPD is a meeting of two ideas, namely the idea of democratization and the idea of accommodating regional interests in order to maintain national integration. Constitutionally, the DPD is not in line with the DPR (medium strength bicameralism) with an asymmetrical and incongruent form. The urgency of strengthening the DPD, one of which is that the DPD is a regional representation where Indonesia is a democratic country which according to theory belongs to the consensus model of democracy, and strengthening the position of the DPD is also an effort to apply the principle of checks and balances between the DPR and DPD. There are several new alternatives for strengthening the DPD, namely through (a) Judicial Interperation (b) Constitutional Conventions; (c) Synchronization of the Standing Orders of the DPR and DPD; (d) Revision of the Structure and Unit Law through Judicial Review; and lastly (e) making a separate DPD Special Law. (c) Synchronization of the Standing Orders of the DPR and DPD; (d) Revision of the Structure and Unit Law through Judicial Review; and lastly (e) making a separate DPD Special Law. (c) Synchronization of the Standing Orders of the DPR and DPD; (d) Revision of the Structure and Unit Law through Judicial Review; and lastly (e) making a separate DPD Special Law.

Historical Aspects of the Institutional Birth of the MPR

Talking about the history of the birth of the MPR in the Indonesian constitutional system cannot be separated from the long debate that took place between the founding fathers of the nation in the sessions for the preparation of Indonesian independence. In the sessions for the preparation of independence, it was revealed that the founding fathers of the nation did not at all think of making countries such as the United States and Western Europe as role models for an independent Indonesian state administration. The trauma of Dutch colonialism and the situation of discussing independence under Japanese rule made constitutional meetings filled with anti-liberalism and anti-Western democracy rhetoric.¹⁴

As stated by M. Yamin, one of the members of the Investigative Agency for Preparatory Work for Independence (BPUPK), at that time he firmly said that Western liberalism and democracy were notions that should be rejected because they were not in accordance with the character of Indonesian political culture.¹⁴This was also conveyed by Soepomo who said that the character of Western liberalism and democracy if applied in Indonesia was feared to separate individuals from society and make individuals alienated from their surroundings and face vis--vis the state. Such a system will eventually lead to the birth of imperialism and a system of exploiting (uitbultings system) and "make chaos in the outer and inner world".¹⁵

¹⁴Saafroedin Bahar and Nannie Hudawati, Minutes of the Investigative Body for Preparatory Work for Indonesian Independence (BPUPKI)-Preparatory Committee for Indonesian Independence (PPKI) May 22, 1945-August 22, 1945, Secretariat of the Republic of Indonesia, p. 22.

¹⁵Id., p. 52.

As a form of rejection of Western liberalism and democracy, a desire emerged from the founding fathers of the nation to transform the aspirations of the people into a form of representation. This desire was first expressed by Soekarno in a historic speech on June 1, 1945 during the BPUPK discussion. The incarnation of these aspirations was then translated into an institution called the People's Consultative Assembly (MPR). One principle that underlies the deliberation system is the third principle of consensus or democracy. It contains the principle of togetherness in the country. In line with Soekarno's conception, M. Yamin apparently also put forward the principle that underlies the deliberation system, namely the People's Fair, which contains the first ideas: deliberation. In his view, Yamin quotes Surah Assyura verse 38 which means: "And for those who believe, obey the call of their Lord and establish prayer, while their affairs are decided by deliberation between them, and they spend part of the sustenance We have given them."¹⁶

Furthermore, M. Yamin also said that the principle of deliberation was applied after the time of the Prophet which was basically united for consensus, according to the custom of combining adat with religious orders. In this context, it appears that the deliberations for Indonesia referred to by M. Yamin are deliberations originating from Islamic law and customary law. *Second*, representation: the customary basis that requires representatives as community bonds throughout Indonesia. Representative as the eternal basis of state order; and third, wisdom (rationalism), changes in customs and society, the desire to surrender, rationalism as the dynamics of society. Although what was conveyed was still causing temporary doubts from the parties, but at least the conception consisting of these three components deserves to be noted as a contribution to the thoughts of the MPR.

From the basis stated, the combination of the three components is made into a conception which is to be realized as the basis for deliberation for the Indonesian state. This basis is a combination of Islamic Law and Custom. This then gave birth to the principle of deliberation as the basis for an independent Indonesia. Apart from M. Yamin, Soepomo also conveyed his ideas regarding an independent Indonesia which was based on the principle of deliberation with the term "Consultative Body".²⁰ Soepomo's comparison is that the future Indonesia will not have a system of individualism like in Western countries but is based on kinship. In the country that will be established later there will be nothing that is orientative, both orientation to the strong and orientation to the many. All systems and components of Indonesian society will have a balanced voice. The state system is totalitarian. In such a context, citizens are an inseparable part of the holder of the control of power in the state. With the term used "Unity between Kawula and Gusti". In this context the position of the citizens is not asking: what are my rights

¹⁶Regarding the principle of deliberation, M. Yamin said that this order was clear. Also in the history of Allah's Apostle and at the time of the four caliphs Alkhulafahurrasyidin, it turns out that the joint deliberation was carried out as well as possible, so that by implementing this basis all people or their representatives could intervene in the preparation and implementation of the state. Deliberation becomes a strength because it opens opportunities for interested people, increases the responsibility of citizens and creates obligations that are nottie the heart. After all in three

with the existence of a state. But he must ask himself: what are my obligations to the country? Such construction will lead to the resolution of problems on the basis of togetherness and deliberation between the people in the area of the head of state.

Soepomo did not explain in detail about the existence of the deliberative body, but from the expression he conveyed, its function was as a deliberative body of the people who would set the lines of government policy, in addition to the head of state, and as a supervisor in the sense of a pair of heads of state in organizing government. With this cooperation, the head of state always knows the aspirations of the people as well as problems that arise in the translation in the deliberative body. It's still related to the MPR. The position of the MPR according to M. Yamin is the highest power institution in the Republic of Indonesia. This institution is a deliberation group of all the people in which not only representatives from regions throughout Indonesia sit, but also representatives from groups within society who are freely and independently elected by the people with a majority vote.²³ The MPR construction in this concept is regulated in such a way that it also includes the DPR institution. It is to the MPR that the President then gives accountability. Furthermore, in the meeting of the drafting committee of the Constitution which was held from 11 to 13 July 1945, the MPR was also discussed. In the text (UUD), the MPR is placed in Article 1 paragraph (2) which states that the sovereignty is in the hands of the people which is carried out entirely by the people's consultative body.¹⁷

The draft was then refined and the final results were brought to trial on 14, 15 and 16 July 1945. In the submission of the conception discussed by the session participants, the conception of the "people's consultative body" changed its name to "People's Consultative Assembly". This was conveyed by Soepomo, who was also an important drafter of the 1945 Constitution. What was decided by the drafting committee of the Constitution, explained by Soepomo that with this provision, the committee believes that all people, all groups, all regions will have representatives in the MPR. On this basis, the MPR is considered as truly the incarnation of the people who hold the sovereignty of the people. The above conception seems to further clarify what the purpose of the MPR institution is. In principle, what is meant by BPUPK regarding the MPR is as stated in the draft which did not change until it was determined at the BPUPK session on August 18 as stated in Article 2 of the 1945 Constitution before the amendment.

In its development, after the revision of the position of the MPR as regulated in Article 1 paragraph (2) of the 1945 Constitution (original text), through the 2002 Annual Session, the MPR again made improvements to the articles relating to the institution of the MPR. Specifically with regard to the position and authority of the MPR after the fourth amendment to the 1945 Constitution, the MPR is no longer positioned as the holder of the highest sovereignty or the highest state institution, but has an equal position with other state institutions.

¹⁷Samsul Wahidin, *supra* note no. 16, p. 74.

Because the MPR is no longer positioned as the highest state institution, there is practically a reduction in the authority of the MPR. One of the powers that have been reduced from the MPR institution is the authority to make GBHN. In the context of the removal of the MPR's authority in drafting the GBHN, now the President has the right to determine his own direction in implementing national development which is made by him, approved jointly with the DPR and stipulated by law. This direction of national development is now familiarly known as the RPJPN which was later revealed to be the RPJMN. Then the question arises, has the RPJPN and/or RPJMN represented the people's wishes and at the same time can be an ideal form of embodiment of popular sovereignty? Aren't the President and the DPR a political institution that could lead to political transactions in the preparation of the RPJPN that have the potential to injure the essence of people's sovereignty? The next question is: how do the people demand their sovereignty regarding their efforts to monitor and evaluate the RPJPM and/or RPJMN that has been implemented by the President? These are the questions which are still very difficult to answer objectively.

The Urgency of State Policy Outlines

It should be noted for all of us that the abandonment of the GBHN in the Indonesian constitutional system cannot be separated from the change in the formulation of Article 3 paragraph (1) of the 1945 Constitution which originally read: "The People's Consultative Assembly stipulates the Constitution and the Outlines of the State Policy" to "The People's Consultative Assembly". The People's Consultative Assembly has the authority to amend and stipulate the Constitution".¹⁸ But the question that then arises is why does Article 3 paragraph (1) no longer authorize the MPR to determine NAM? Why not like the old Article 3, which is "The People's Consultative Assembly stipulates the Constitution and the Outlines of the State Policy"? This turned out to be closely related to the decision of the factions to agree on a direct presidential election system.¹⁹

There were two major views in the debate on the third amendment to the 1945 Constitution at that time. First, is the view that if the President is directly elected by the people, the MPR will no longer be in charge of drafting the GBHN as when the President was directly elected by the MPR. Each presidential candidate will present his program offer to the people during the campaign period which will later become a program that will be implemented by the elected President. The second view is the view that even though the President is directly elected, there is still a need for the GBHN set by the MPR, so that the MPR can still oversee the implementation of the President's programs.

¹⁸This Article change occurred in the third amendment to the 1945 Constitution in 2001.

¹⁹Valina Singka Subekti, *Drafting the Transitional Constitution: Struggle of Interests and Thoughts in the Process of Amending the 1945 Constitution*, Rajawali Press, Jakarta, 2007, p. 238.

If you look at the overall history of the discussion, it is revealed that there has actually been quite a long debate regarding this matter. However, at the end of the debate, from the two views that were debated, it was agreed that if the President was directly elected by the people, the MPR would no longer be in charge of drafting the GBHN as when the President was directly elected by the MPR. In this way, the MPR practically no longer has the authority to monitor the President's performance in realizing his promises (program offers) during the campaign. The MPR no longer supervises the performance of the President, and the supervision is then carried out directly by the people.

Not long ago after the elimination of the GBHN in the Indonesian constitutional system, the so-called Long Term Development Plan (RPJP) was born as a future national development planning system. If referring to the explanation of 1 General Provisions of Law Number 17 of 2007 concerning the National Long-Term Development Plan of 2005-2025 which incidentally is the legal basis for forming the RPJP, it is said that: "With the absence of the State Policy Guidelines (GBHN) as guidelines for the preparation of national development plans and the strengthening of regional autonomy and decentralization of government within the Unitary State of the Republic of Indonesia, in order to maintain sustainable development, the formation of a National Long-Term Development Plan is indispensable. This is in line with Law Number 25 of 2004 concerning the National Development Planning System (SPPN) which orders the preparation of the National RPJP that adheres to a visionary planning paradigm, so the National RPJP only contains an outline direction".

In terms of the mechanism for the preparation of the RPJP, the drafting process begins with the preparation of the initial draft of the development plan, continues with the development planning deliberation, and ends with the preparation of the final draft of the development plan. The whole process takes place in the government. After the final draft of the development plan is completed, the next process is in the hands of the DPR together with the President to be later approved and ratified into a Law on the National Long-Term Development Plan. Based on the brief description of the RPJPN above, it should be seen that in principle the spirit of forming the RPJPN is in line with the formation of the GBHN, namely that both of them want the Indonesian state to have a clear direction of national development in its government system. However, the author sees several weaknesses in the RPJPN concept. The author is of the view that in the future it is necessary to revive the GBHN as the basic direction of the state established by the MPR. Some of the weaknesses of the RPJPN can be explained in the following paragraphs.

First, the forming actors are not representative. In this regard, as stated at the outset that as the direction of national development, the RPJPN is made by the President which is then discussed and approved together with the DPR to become a law. After the RPJPN is ratified, the President has full responsibility for implementing it. The question that then arises is, does the RPJPN really represent the will of the people and at the same time can be an ideal form of embodiment of popular sovereignty if the only one who makes it is the President? Although in

principle the current President is elected through a general election by the people directly, This does not mean that all programs carried out by the President during the campaign period are programs that are the will of the people to be carried out in the future. Even if, after being drafted by the President, the RPJPN was discussed and ratified together with the DPR, wouldn't both of them be political representations that could lead to political transactions that could potentially injure people's hearts? If we are consistent with the material nature of the national development plan which in fact is the will of the people, of course this will become a problem. Aren't both of them political representations, which could lead to political transactions in the discussion that have the potential to injure people's hearts? If we are consistent with the material nature of the national development plan which in fact is the will of the people, of course this will become a problem. Aren't both of them political representations, which could lead to political transactions in the discussion that have the potential to injure people's hearts? If we are consistent with the material nature of the national development plan which in fact is the will of the people, of course this will become a problem.

Second, implementing actors who are not related to the nature of implementing people's sovereignty. At the beginning it was said that with the change in the formulation of Article 1 paragraph (2) of the 1945 Constitution which originally stated that "sovereignty is in the hands of the people and carried out entirely by the People's Consultative Assembly" to "sovereignty is in the hands of the people and implemented according to the Constitution" brought the basic consequence is that now all state institutions (especially state institutions whose authority is granted by the 1945 Constitution of the Republic of Indonesia) are actors implementing people's sovereignty. That way, practically all state institutions as intended have the responsibility to carry out whatever things are the will of the people which are summarized in a basic direction of national development. However, in current practice, The current RPJPN is only a national development direction aimed at the President as one of the many actors implementing people's sovereignty. This of course makes the absence of interconnection between the direction of national development and actors implementing people's sovereignty.

Therefore, if we are consistent in the nature of sovereignty and all state institutions as intended are the implementation of people's sovereignty, of course now we have to think about how to have a state direction that truly has a good interconnection between the nature of people's sovereignty and institutions. the state as the executor of popular sovereignty. This of course makes the absence of interconnection between the direction of national development and actors implementing people's sovereignty. Therefore, if we are consistent in the nature of sovereignty and all state institutions as intended are the implementation of people's sovereignty, of course now we have to think about how to have a state direction that truly has a good interconnection between the nature of people's sovereignty and institutions. the state as the executor of popular sovereignty. This of course makes the absence of interconnection between the direction of national development and actors implementing people's sovereignty. Therefore, if we are consistent in the nature of sovereignty and all state institutions as intended are the

implementation of people's sovereignty, of course now we have to think about how to have a state direction that truly has a good interconnection between the nature of people's sovereignty and institutions. the state as the executor of popular sovereignty.

Third, the ineffectiveness of community control mechanisms over the implementation of the RPJPN and/or RPJMN. As it is known that until now, there is no other mechanism that can be carried out by the community in carrying out the control function over the President in implementing the RPJPN and/or RPJMN other than through general elections. Through general elections, the public is given the right to assess the effectiveness of the President's work performance in implementing the RPJPN and/or RPJMN by re-electing the relevant President (even if he is running for re-election) if it is felt that his work performance is being carried out effectively. On the other hand, the public also has the right not to re-elect the relevant President if it is felt that his work performance in implementing the RPJPN and/or RPJMN has not been implemented effectively.

This kind of supervision model according to the author is not an ideal supervision model. It is appropriate that at any time if necessary there is a mechanism that can be implemented to control so that the implementation of the RPJPN and/or RPJMN can continue to run effectively. This is a formulation that has not been found until now. Meanwhile, on the one hand, such a supervisory model, according to the author, becomes a necessity. Then there are weaknesses that ultimately led to the idea of the need for the MPR to be given back the authority to form the GBHN, which was also conveyed by several legal experts. For example Kaelan, he said that: The period of the National RPJP is 20 (twenty) years. The implementation of the 2005-2025 National RPJP is divided into stages of national development planning, which are arranged in each period of the National Medium-Term Development Plan (RPJM), which is a period of 5 years and is stipulated by a Presidential Regulation of the Republic of Indonesia, for example, Presidential Regulation of the Republic of Indonesia Number 5 of 2010 concerning National Mid-Term Development Plan 2010-2014, which was then carried out by the President. Here in lies the weakness of the development planning and implementation system according to the 1945 Constitution of the Republic of Indonesia after the reformation. Because the National RPJP which is the general reference for national development is stipulated by law, while

The National RPJM is determined by Presidential Regulation, while the implementation is the President himself.

If the reform of state government power is primarily to create conditions of checks and balances, then the planning and implementation of national development does not realize the mechanism of checks and balances. If the RPJP is stipulated by law, in reality it is the President who is actively drafting and determining it, while the DPR only gives approval. Moreover, the concrete implementation of national development in the National RPJM which is prepared and planned by the President and stipulated by Presidential Regulation. Consequently, if there is a discrepancy

with the development plan or even deviates from the development plan, or at least does not experience significant progress, then there will be no clear control of power or juridical sanctions.

Furthermore, Yudi Latif, for example, stated that there were three reasons why the GBHN needed to be returned as national development guidelines, namely: *First*; "If Pancasila contains philosophical principles, the Constitution contains normative principles, then the State Policy contains directive principles. The philosophical values of Pancasila are abstract. The articles of the Constitution also mostly contain large norms that do not provide direction on how to institutionalize them. For this reason, a guiding principle is needed which contains directive principles on how to institutionalize the values of Pancasila and the Constitution into a number of public institutions, which can guide state administrators in formulating and implementing development policies in a guided, planned manner, and integrated. As a directive principle, the State Policy must also be a guide in making legislation."

Second; The existence of the GBHN is an integral package of the conception of the family state desired by Pancasila and the 1945 Constitution. In the conception of a familial state which emphasizes consensus, basic political policies are not left to the President as an expression of majoritarian power, but must be formulated together through the most complete assembly representing all elements of people's power. *Third*; By reviving the State Policy, it does not mean that the format and content of the State Policy must be the same and congruent with the previous version of the GBHN. Importantly, substantially, the State Policy must contain guiding principles which contain ideological and strategic directive principles. In the context of restoring the GBHN, we can combine the positive legacies of the various government regimes so far, both the Old Order, the New Order and the Reform Order."

The paradigm built by Yudi Latif emphasizes that in a familial state (also called an integralistic state) with a consensus democracy that is unique to Indonesia, the basic policies (plans) of development are not left to the president as an expression of majoritarian power. The basic policies of the development plan must be formulated together through a consensus mechanism for all representations of the people's political power in a complete representative institution, namely the MPR. In other words, the President does not develop politics alone, but must carry out the directive principles set by the MPR in a GBHN.

Almost in line with the Judiciary, Daoed Joesoef even noted that it was not only the GBHN that needed to be restored but also the Outline of State and National Policy (GBHNB). It is said that: This GBHNB must be a sustainable development concept that aims not only to increase the plus-value-of-things (income), but also to increase the added value of human beings (to be more, self-improvement, diuwongke). Increasing human value is also carried out by the government through its function as a tutor, by building the soul far ahead of building the body as narrated by the national hymn "Indonesia Raya". In other words, we need to

master the skills of nation-state as a skill with the soul of nation-statecraft as soulcraft. "To govern is to foresee".

Furthermore, Ravik Karsidi stated that the purpose of the GBHN restoration was none other than welfare. Ravik Karsidi stated that there are four reasons why the GBHN is considered important in mapping the direction of national development. First, for historical reasons, second for juridical reasons, third for political reasons, and fourth for socio-economic reasons. *First*, historical reasons. "Efforts to draft the GBHN have basically been carried out since the beginning of independence as part of the economic planning model mandated by Article 33 of the 1945 Constitution. However, it was deliberately omitted during the reformation period because it was considered a direct presidential election mandate who has the authority to shape the direction of development according to the vision and mission his own leadership. In the early days of the formation of the GBHN, President Soekarno gave birth to the Central Indonesian National Committee (KNIP) which based on the Declaration Number X dated October 16, 1945 was given the task to assist the President in drafting the GBHN. In a state of emergency due to the revolution, the implementation of the GBHN cannot run well because the preparation and realization of a systematic economic plan requires the cooperation of all elements of the nation. The preparation efforts were then continued by the Natsir Cabinet (September 1950-March 1951) in the Economic Urgency Plan or Industrial Urgency Plan 1951-1953, which was designed by Soemitro Djojohadikusumo. Along the journey of power, the GBHN then underwent a detailed arrangement in the New Order era. In addition to continuing the Old Order era, the GBHN is an embodiment of the Pancasila people's economic planning model in accordance with Article 33 of the 1945 Constitution which has never changed the substance of meaning."

Second, juridical reasons. "The system created to replace the role of the GBHN, namely the National Development Planning System, seems to be running ineffective. In fact, the system which was born from Law No. 25/2004 is mandated to be able to produce long-term, medium-term and annual development plans implemented by elements of state and community administrators at the central and regional levels. The presence of Law No. 17/2007 on Long-Term Development Plans has not been able to accommodate a development guideline and has made it difficult for government programs to run in a sustainable manner. The direction of national development so far, as mentioned above, refers to the vision and mission of the President which is then compiled in detail as the Medium-Term Development Plan. However, The vision and mission of the President which are then translated into the RPJM and RPJP made by the government through the DPR only represent parties. The enactment of No. 6/2014 on Villages and Law No. 23/2014 on Regional Government requires consistency in long-term development planning from the central to regional levels."

Third, political reasons. "Solutions to all the problems experienced by Indonesia cannot be sought from outside. This nation can only move forward after this nation is able to recognize itself. With the GBHN, the supervision of the development process should also be stronger. The reason is, all nations know where the country's goals should be. There may still be an assumption that reviving the GBHN is a setback in the state and democracy. However, taking the good from the past, so far as to The progress of the nation, state and democracy is actually a much better step forward."

Fourth, socio-economic reasons. "Every development must be sustainable, especially regarding infrastructure on a national scale. Not mutually or not in the same direction as was done in this reform era. The lack of achievement of the purpose of economic development as mandated by the constitution is mainly due to deviations from the development direction from the spirit and soul of the constitution. The deviations carried out took place both in the form of liberalization of laws, fiscal policy, and monetary functions that were independent of the constitutional mandate. Since the reformation, many laws on the economic sector have been passed, which, after being reviewed by the Constitutional Court, have been proven unconstitutional."

Meanwhile, in the perspective of social order, Sudjito said that in general, the principle of democracy and the prerequisite for the establishment of a democratic state is that the people can freely express their aspirations in political and social policies. Through and on the basis of popular sovereignty and democracy, the people have the opportunity to express their will systematically, or sporadically. In it, there is a philosophy of systemic interrelationship between people's sovereignty, democracy and its social basis. That is, the life and future of the people as individuals and as a nation, are planned, designed and achieved through efforts to pay attention to the aspirations of the people, as well as their social dynamics. It was there then that the GBHN was a means of humanizing (nguwongke) the people in the context of social responsibility for state administrators. Population sovereignty, democracy and GBHN are needed and their realization must be through social analysis. This is important so that aspirations and social dynamics are properly accommodated.²⁰

Furthermore, Sudjito said that the GBHN must substantively come from the ideas of the people which are the work of intellectual-academic morals of the people and statesmen, not just the work of politicians. Ideally, the GBHN is prepared on the basis of the Pancasila ideological platform in order to achieve the country's goals, namely: "...to form an Indonesian government that protects the entire Indonesian nation and the entire homeland of Indonesia and to promote public welfare, educate the nation's life and participate in carrying out world order based on independence, eternal peace and social justice...". This is the teleological

²⁰Sudjito, *People's Sovereignty, Democracy, and GBHN in the Perspective of Social Order*, Papers in the Focus Group Discussion event in collaboration with the MPR RI Study Institute (Lemkaji) and the Faculty of Law, Islamic University of Indonesia, 11 May, p. 3

dimension. The GBHN must reflect the state system, contain the main points of permanent state institutions and operational legal norms as the translation of legal principles based on the Pancasila ideology. Empirically, the visions and missions of the President and Vice President so far have not been able to bring the Indonesian state closer to its ideals of being a state. People are positioned only as spectators, objects and never subjects in the state. These various opinions strengthen my view that in the future it is necessary to revive the GBHN as the direction of state life in Indonesia. There is no other purpose in the effort to revive the GBHN in the Indonesian constitutional system other than as an effort to straighten out something that needs to be straightened out.

***Ius Constituendum* GBHN and its Forming Authority**

With regard to the *ius constituendum* GBHN and the authority for its formation, the author needs to convey several things. First, the GBHN constructed in this paper is not the past version of the GBHN (Guided Democracy and the New Order) because it is no longer relevant to be applied to the current Indonesian constitutional system. As is known, the GBHN in the past was only in the form of a speech by the President which was given a legal form with an MPR Decree. MPR Decree No. 1/MPRS/1960 concerning the Political Manifesto of the Republic of Indonesia as Outlines of the State Policy, the contents of which are from the President's speeches on August 17, 1959, August 28, 1959, September 30, 1960, and November 10, 1960. For later periods during the New Order era, this GBHN is indeed derived from the President's speech which was given a legal form by the MPR Decree.

Second, in the future the content of the GBHN must contain basic norms that lead to national goals and objectives that are in nature providing direction to state institutions, especially government administration institutions, both the Central Government and Regional Governments. In other words, substantially the country's direction must contain guiding principles which contain directive principles that are formed based on national ideals and goals. These basic norms of state policy should later serve as sources and directions for state institutions in formulating their vision, mission, and objectives, especially for the President in carrying out government and development;

Third, the authority to form the GBHN must be in the hands of the MPR which is carried out together with the President with all the leaders of state institutions implementing people's sovereignty. Like the formation of a law, the draft GBHN must obtain mutual approval by the forming actors to be later ratified and stipulated as a GBHN. The construction of such a formation according to the author will further make the GBHN that will be formed in the future actually become a basic course of state life that is purely present as the will of the people as well as the material nature of the GBHN itself;

Fourth, the GBHN product is stipulated through an MPR Decree. As it is known that after the amendment to the 1945 Constitution, the MPR cannot and will no longer apply regulatory legal products (*regeling*), except in the form of the Constitution or

amendments to the Constitution.²¹ In other words, the TAP MPR issued now must be concrete and individual, or in legal language we are familiar with the term *ius constituendum* decision. However, because in this paper the *ius constituendum*, the authority to determine the GBHN is in the hands of the MPR after obtaining mutual approval, then in the future it is necessary to open a space for the MPR to again have the authority to issue a stipulation that is "regulating", "specifically" intended to stipulate GBHN such as the case when the MPR stipulates the constitution or changes to the constitution.

III. CONCLUSION

That the debate table has various arguments from various considerations, whether legal, political, social, cultural and others, it is certain that they will always emerge from various groups. However, from my writing above, I can conclude that there are two main conclusions, namely:

1. The return of the GBHN in the Indonesian constitutional system is something that is very important to do for several reasons.
 - a. First, I see that there are several weaknesses in the RPJPN concept, where every head of state will make a development concept based on visions and there is no definite reference to the direction of National development, so that achievements are difficult to measure.
 - b. Second, as a direction for sustainable development, the GBHN is a guiding principle that contains directive principles on how to institutionalize the values of Pancasila and the Constitution into public institutions.
 - c. Third, as a concept, the GBHN is an integral package of the concept of a familial state that is desired by Pancasila and the 1945 Constitution;
2. As the *ius constituendum* on the GBHN and the authority for its formation, some thoughts are as follows.
 - a. It is hoped that substantially the state's direction must contain guiding principles that contain basic directions that are formed based on national ideals and goals. The contents of the GBHN contain basic rules that lead to national goals and objectives that are in nature providing direction to state institutions, especially government administration institutions, both the Central Government and Regional Governments.
 - b. In the future GBHN, it will not be constructed as the past version of the GBHN because it is no longer relevant to be applied to the current Indonesian constitutional system.
 - c. In order to form the GBHN, the authority must be in the hands of the MPR which is carried out together with the President with all the leaders of state institutions implementing people's sovereignty and is determined through an MPR Decree.

²¹Jimly Asshiddiqie, *Indonesian Constitution and Constitutionalism*, Secretariat General and Registrar of the Indonesian Constitutional Court, Jakarta, p. 338

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