

National Development Planning Model of State Policy Guidelines Proposed Limited Amendment to the Indonesian Constitution



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Article Info

Received: 18 January 2023

Revised: 19 July 2023

Accepted: 23 July 2023

Keywords:

Limited Changes;

Constitution;

National Development

Abstract

The emergence of the State Policy Guidelines (GBHN) discourse has been revived all this time because of the disappointment of many parties related to the development process whose outputs and outcomes are not in line with expectations and are not coherent. The development process is seen as being overemphasized on the limited perspective of the President or Regional Head elected, resulting in development disparities that are still far from expectations. Therefore, there is a thought to propose a limited amendment to the 1945 Constitution of the Republic of Indonesia concerning the GBHN model of national development planning. The things that will be explained are the Legal Products of the National Development Planning of the GBHN model, the Process of Forming the National Development Planning of the GBHN model, the Legal Implications of the National Development Planning of the GBHN model, Recommendations for the National Development Planning Content of the GBHN model. This type of research conducted is normative legal research, or often known as the normative juridical approach. In the fifth amendment to the 1945 Constitution the position of the MPR would still be a high state institution but the granting of authority to the MPR in determining the GBHN was a form of mechanical check and balance in the administration of state life.

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1. Introduction

The People's Consultative Assembly (MPR) is one of the institutions that has undergone fundamental changes in terms of its position, function and role after the amendment of the 1945 Constitution. Prior to the amendment of the 1945 Constitution, Indonesia's system of government was a presidential system as evidenced by ministers being appointed and dismissed by the president, but the provision that the president is responsible to the MPR proves that the parliamentary system model is also adopted by the 1945 Constitution. The People's Consultative Assembly can bring down the president by convening a special session of the MPR. If the MPR rejects the responsibility, the president will be dismissed by the MPR. This dismissal will result in the dissolution of

[doi https://doi.org/10.33061/wh.v29i1.3443](https://doi.org/10.33061/wh.v29i1.3443)

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the cabinet.¹ One of the basic points of agreement in the amendment of the 1945 Constitution is to reinforce the presidential system. To support the spirit of strengthening the presidential system, various basic changes were made in the Indonesian constitution, including: (1). The President, who was originally a mandate of the people elected by the People's Consultative Assembly, became directly elected by the people. (2). The President, who used to run the State Policy Guidelines (GBHN), now runs the development in accordance with the vision and mission that he conveyed during the campaign.²

The loss of the authority to establish the GBHN has implications for the national development system so that the guidelines for implementing development are replaced by the National Long-Term Development Plan (RPJPN) for 20 years as outlined in Law No. 17 of 2007, as mandated by Article 13 paragraph (1) of Law No. 25 of 2004 concerning the National Development Planning System (SPPN). This RPJPN becomes a reference for five-year development called the National Medium-Term Development Plan (RPJMN): RPJMN I 2005-2009, RPJMN II 2010-2014, RPJMN III 2015-2019, and RPJMN IV 2020-2024. This development planning document is no longer the authority of the MPR, but rather the joint authority of the DPR RI and the President of the Republic of Indonesia. However, when compared to the previous development planning system, which was regulated in Permendagri No 9 of 1982 on Guidelines for the Preparation of Regional Planning and Control (P5D), SPPN at least from a normative perspective promises a better development planning process. In its time, even in terms of process and stages, the P5D was almost the same as the SPPN.³

The National RPJM is an elaboration of the President's vision, mission and programme, the preparation of which is guided by the National RPJP, containing national development strategies, general policies, programmes of Ministries/Institutions and cross-Ministries/Institutions, regional and cross-regional, as well as a macroeconomic framework that includes a comprehensive picture of the economy including the direction of fiscal policy in a work plan in the form of a regulatory framework and an indicative funding framework. The stages of preparing the RPJM begin with the preparation of the initial draft of the National RPJM by the Minister of Planning, in this case carried out by Bappenas as the institution responsible for coordinating national development planning; Preparation of the draft Ministry / Institution Strategic Plan (draft Renstra-KL), which is carried out by all ministries and institutions. The preparation of the draft Renstra aims to formulate the vision, mission, objectives, strategies, policies, programmes and development activities in accordance with the duties and functions of the ministries/institutions, to be in line with the priority programmes of the elected head of state.⁴

¹ Oly Viana Agustine, 'The Applicability of Jurisprudence on the Authority of Judging Laws in the Constitutional Court Decisions', *Jurnal Konstitusi*, 15.3 (2018), 642.

² Harry Setya Nugraha, 'Mpr Dan Urgensi Garis Besar Haluan Negara Dalam Sistem Ketatanegaraan Indonesia', *Veritas et Justitia*, 5.1 (2019), 191-217 <<https://doi.org/10.25123/vej.3293>>.

³ Imam Subkhan, 'GBHN Dan Perubahan Perencanaan Pembangunan Di Indonesia', *Aspirasi*, 5.2 (2014), 131-44.

⁴ Poppy S. Winanti and Rachael Diprose, 'Reordering the Extractive Political Settlement: Resource Nationalism, Domestic Ownership and Transnational Bargains in Indonesia', *Extractive Industries and Society*, 7.4 (2020), 1534-46 <<https://doi.org/10.1016/j.exis.2020.08.015>>.

Then the preparation of the draft National RPJM by the Ministry of Planning as an effort to integrate the initial draft of the National RPJM with the draft Renstra-KL; organising the national medium-term Development Planning Conference (Musrenbang) and preparing the Final Draft of the National RPJM. Renstra-KL contains vision, mission, objectives, strategies, policies, programmes, and development activities in accordance with the duties and functions of Ministries/Institutions that are prepared by referring to the National RPJM and are indicative in nature. Then from the Renstra, a concrete form of implementation is made in the form of the Ministry of Institutions Work Plan (Renja-KL).⁵

Renja-KL is prepared based on the existing Renstra-KL and refers to national development priorities. The preparation of RenjaKL is conducted simultaneously with the preparation of the Government Work Plan (RKP) because both are interrelated. The RKP is a plan that covers a one-year period, in this case as an Annual Development Plan and is an elaboration of the National RPJM. The RKP contains development priorities, a draft macroeconomic framework that includes a comprehensive economic picture including fiscal policy, as well as Ministry / Agency, cross-Ministry / Agency, regional programmes in the form of a regulatory framework and a funding framework that is still indicative. The RKP is then used as a guideline for preparing the State Budget Plan (RAPBN) and policies are made through the State Budget Law (APBN) as a tangible form of development implementation. Likewise, in local government, using the same systematics that have been regulated in the SPPN Law which is briefly almost the same as the national development policy process.⁶

However, the SPPN has the disadvantage that there is no certainty that what has been ideally constructed in the laws and regulations related to the SPPN and RPJPN is consistently implemented by relevant stakeholders. In addition, there is no clear mechanism to assess whether the planning documents created as a follow-up to the RPJPN, such as at the national level, RPJMN, Ministry/Institution Strategic Plan, Government Work Plan, Ministry Work Plan, and at the regional level, RPJMD, Renstra SKPD, RKP, Renja SKPD, have indeed referred to the RPJP. Especially when considering the involvement of the mechanism for elaborating the vision and mission of the elected President/Regional Head, the potential gap with the RPJP becomes even greater. Therefore, many parties consider that the development process seems to run independently and becomes unpatterned. This condition can be said to have almost not occurred in the previous era, when GBHN was the main reference for the development planning process both at the national and regional levels.⁷

The idea of reviving the GBHN became a hot topic of discussion when development achievements in Indonesia were considered to have lost direction. Not only has it lost its

⁵ King Faisal Sulaiman, 'Polemik Fungsi Sosial Tanah Dan Hak Menguasai Negara Pasca UU Nomor 12 Tahun 2012 Dan Putusan Mahkamah Konstitusi Nomor 50/PUU-X/2012', *Jurnal Konstitusi*, 18.1 (2021), 091-111 <<https://doi.org/10.31078/jk1815>>.

⁶ Imas Sholihah, 'Kebijakan Hukum Pembangunan Kawasan Perbatasan', *Rechtsvinding*, 5.3 (2016), 305-20 <<https://doi.org/10.33331/rechtsvinding.v5i3.147>>.

⁷ M. I. Asnawi and others, 'State-Owned Enterprise Financial Governance: Dilemma of State Wealth Separation', *IOP Conference Series: Earth and Environmental Science*, 452.1 (2020) <<https://doi.org/10.1088/1755-1315/452/1/012036>>.

direction, but its sustainability and continuity are also questioned because in the presidential system of government adopted in Indonesia, the president is given a mandate and full power to run the government in accordance with the vision and mission he campaigned for. Therefore, the implementation of the national development system is based on the president's political promises, so it is certain that when the government regime changes, the direction and priorities of national development will also change.⁸

Unlike the case with some countries in the world that have universal planning like GBHN in Indonesia where the planning is considered successful in bringing the country in question to a better national development of the country from year to year and has a sustainable, directed, measurable and systematic.⁹ For example: The People's Republic of China was established in 1949, Mao Tse-tung was determined to defeat the US in 2049. For this reason, since 1953, China has had Repelita.¹⁰ The 12th Repelita (2011-2015) and now China is in the 13th Repelita (2016-2020). Mao's successor, Deng Xiaping to Xi Jinping also had dreams of beating the US. Even in 2005, the country set targets: 2025 to equal Japan, 2050 to be a relatively developed country, 2080 to be a developed country equal to the US and 2100 to be a superpower replacing the US. Clarity of vision in nation-building is not only possessed by China but also other countries for example India and Thailand. India has had Repelita since 1951. India is now in its 12th Repelita (2012-2017) which wants to transform the country in various sectors of life ranging from agriculture to technology, as well as Thailand is now in its 11th Repelita (2011-2017).¹¹ Based on the aforementioned description, the author demonstrates an interest in conducting research on the proposed limited amendments to the 1945 Constitution of the Republic of Indonesia pertaining to the national development planning model outlines of state policy (GBHN). The primary objectives of this research are to examine the legal products of the national development planning model outlines of state policy (GBHN), investigate the process involved in the formation of the national development planning model outlines of state policy (GBHN), and analyse the legal implications associated with the national development planning model outlines of state policy (GBHN).

2. Research Method

The present study pertains to legal research. F. Sugeng Istanto defines legal research as a form of research that is specifically focused on the field of legal science and is intended to be applied or utilised in this context. The research conducted falls under the category of

⁸ Muhammad Bahrul Ulum and Nilna Aliyan Hamida, 'Revisiting Liberal Democracy and Asian Values in Contemporary Indonesia*', *Constitutional Review*, 4.1 (2018), 111–30 <<https://doi.org/10.31078/consrev415>>.

⁹ Benediktus Handoyo, 'Idealisme Constituendum Mahkamah Konstitusi Dalam Pengujian Undang-Undang Terhadap Undang-Undang Dasar', *Arena Hukum*, 14.1 (2021), 1–18 <<https://doi.org/10.21776/ub.arenahukum.2021.01401.1>>.

¹⁰ Yessi Anggraini, 'Perbandingan Perencanaan Pembangunan Nasional Sebelum Dan Sesudah Amandemen UUD 1945', *Junal Ilmu Hukum*, Volume 9,1 (2015), 74–88 <<file:///C:/Users/user/Downloads/589-1883-3-PB.pdf>>.

¹¹ Sekar Anggun Gading Pinilih, 'The Green Constitution Concept in the 1945 Constitution of the Republic of Indonesia', *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada*, 30.1 (2018), 200 <<https://doi.org/10.22146/jmh.28684>>.

normative legal research, also referred to as the normative juridical approach.¹² The process of legal research involves the comprehensive analysis and examination of various resources available in libraries, encompassing primary legal materials as well as secondary legal materials. In order to address the various issues encompassed within this research, a multitude of methodologies were employed. Peter Mahmud Marzuki suggests that in the field of legal research, various approaches can be employed.¹³ These include the statutory approach, case approach, historical approach, comparative approach, and conceptual approach.¹⁴

3. Results and Discussion

The development planning for national progress should be based on the Guidelines for State Policy (GBHN) and encompass legal products

In Indonesia, there have been two distinct National Development planning systems that have been implemented. The first system is known as the GBHN model, which is operationalized through the TAP MPR mechanism. The second system is referred to as the National Development System Model. The current regulatory framework encompasses the National Development Planning System (SPPN), which is delineated through the National Long-Term Development Plan (RPJPN) in the form of legally binding statutes. In practical application, both the GBHN and SPPN exhibit inherent strengths and weaknesses during their implementation. Nevertheless, the primary aspect that distinguishes the two entities is the matter of the President's responsibility pertaining to development planning throughout their tenure. In the period preceding the amendment of the 1945 Constitution and as outlined in the GBHN, the President's accountability report was presented to the MPR during a dedicated session of the MPR. In contrast, the absence of presidential accountability is a defining characteristic of the SPPN. Consequently, the absence of a standard by which to assess the adherence of development planning to established regulations is evident.¹⁵

Furthermore, the RPJPN, also known as the National Medium-Term Development Plan (RPJMN), is formulated in accordance with the Vision and Mission of the President and Vice President, and is revised every five years. This phenomenon inevitably leads to a state of perplexity due to the evolving political dynamics in Indonesia. The Vision and Mission of the President and Vice President, elected once every five years, may vary due to the potential differences in political parties that nominate them in Indonesia's General Elections. These variations are contingent upon the supporting parties and the community's demands. Therefore, given these challenges, it is possible that the RPJMN may not align with the RPJMN, particularly due to the absence of any published accountability measures for its

¹² Rian Saputra and others, 'Artificial Intelligence and Intellectual Property Protection in Indonesia and Japan', *Journal of Human Rights, Culture and Legal System*, 3.2 (2023), 210–35 <<https://doi.org/10.53955/jhcls.v3i2.69>>.

¹³ Rian Saputra, 'Development of Creative Industries as Regional Leaders in National Tourism Efforts Based on Geographical Indications', *Bestuur*, 8.2 (2020), 121–28 <<https://doi.org/10.20961/bestuur.43139>>.

¹⁴ Rian Saputra and Silaas Oghenemaro Emovwodo, 'Indonesia as Legal Welfare State: The Policy of Indonesian National Economic Law', *Journal of Human Rights, Culture and Legal System*, 2.1 (2022), 1–13 <<https://doi.org/10.53955/jhcls.v2i1.21>>.

¹⁵ P Prayudi, 'Mpr, Transisi Kedaulatan Rakyat Dan Dampak Politiknya', *Jurnal Politica*, 3.1 (2012), 19–40 <<https://dprexternal3.dpr.go.id/index.php/politica/article/view/299>>.

implementation at both institutional and national levels.¹⁶

The application of regional autonomy in Indonesia entails the granting of authority to individual regions, allowing them to exercise control over the course of their respective regional development. Naturally, such variations can give rise to disparities in the formulation of development strategies within each respective region. Furthermore, it is worth noting that in Indonesia, the process of formulating development plans in different regions is conducted in accordance with the vision and mission of the elected regional leader, as delineated in the Regional Medium-Term Development Plan (RPJMD). Consequently, it is evident that aligning the National Medium-Term Development Plan (RPJMN) with the Regional Medium-Term Development Plan (RPJMD) in various regions of Indonesia poses a considerable challenge. In contrast to the current practise, prior to the amendment of the 1945 Constitution, the President and Vice President were required to present their Annual Report (LPJ) during a Special Session of the People's Consultative Assembly (MPR).¹⁷ In order to establish a system of accountability for the president and/or vice president during their tenure, it is imperative to implement appropriate measures. Similarly, in various regions, the process of development planning will be aligned with the General Guidelines for National Development (GBHN) as the fundamental framework for formulating development strategies across Indonesia. Hence, in order to establish a system of accountability for the President and/or Vice President in implementing the National development plan, it is imperative to have a legally binding instrument that specifically regulates this matter. This legal instrument takes the form of a Decree of the People's Consultative Assembly (TAP MPR) on the General Guidelines of State Policy (GBHN). The GBHN (Government Work Plan) offers a comprehensive outline that will be executed by the president, vice president, and regional heads across Indonesia, detailing the intended accomplishments to be realised within a specified timeframe.¹⁸

Hence, with regards to the post-tenure accountability of the president and/or vice president, as well as the need for standardised guidelines and harmonisation between the central and regional entities in the National development plan, the most suitable national development planning system is deemed to be the GBHN Model, which was established through the MPR Decree. As stipulated in the 1945 Constitution, the MPR RI holds the authority to issue the MPR Decree on the GBHN, as prescribed prior to the constitution.¹⁹ However, it is imperative that the regulation be explicitly articulated within the confines of the 1945 Constitution, in alignment with the prevailing circumstances. With advancements made in previous iterations, it is anticipated that the future iteration of the GBHN will be capable of offering tangible measures for the developmental planning of the Republic of Indonesia. In response to the Reformation's requirements in 1998, four amendments to the 1945 Constitution were effectively implemented between 1999 and 2002. Nevertheless, it is

¹⁶ Bagus Hermanto, 'Penguatan Pengaturan Kelembagaan Badan Pembinaan Ideologi Pancasila, Perluakah?', *Jurnal Legislasi Indonesia*, 18.2 (2021), 204 <<https://doi.org/10.54629/jli.v18i2.742>>.

¹⁷ Adi Sulistiyono, 'Pembaharuan Hukum Yang Mendukung Kondusifitas Iklim Usaha', *Yustisia Jurnal Hukum*, 4.3 (2015), 248–53.

¹⁸ Ira Alia Maerani, 'Implementasi Ide Keseimbangan Dalam Pembangunan Hukum Pidana Indonesia Berbasis Nilai-Nilai Pancasila', *Jurnal Pembaharuan Hukum*, 11.2 (2015), 329–38 <<http://jurnal.unissula.ac.id/index.php/PH/article/view/1364>>.

¹⁹ Diya Ul Akmal, 'Penataan Peraturan Perundang-Undangan Sebagai Upaya Penguatan Sistem Hukum Di Indonesia', *Jurnal Legislasi Indonesia*, 18.3 (2021), 296 <<https://doi.org/10.54629/jli.v18i3.761>>.

important to note that not all aspects associated with the New Order were completely discarded. It is imperative to uphold and enhance elements that yield a favourable influence on the well-being of a nation and its governing body. In order to enhance the applicability of the preceding concept, it is advisable to employ a more refined formula, such as the GBHN formula, as an illustrative example.²⁰

The process of formulating national development planning is based on the Guidelines for State Policy (GBHN)

The concept of GBHN originated during the Old Order era, but its practical implementation occurred during the New Order period, as previously elucidated. Despite the fact that the implementation varies from what has been determined. Currently, the notion of revitalising the GBHN (General Guidelines for National Development) in Indonesia will inevitably be informed by the previous iteration of the GBHN. However, this does not imply a wholesale replication; rather, there is a recognition of the need for enhancements to refine its efficacy. The genesis of the GBHN commences with the conceptualization and development of the GBHN framework. The MPR RI, as an authoritative institution responsible for issuing TAP MPR pertaining to GBHN, cannot operate in isolation.²¹ The establishment of a Constitutional Commission or an Ad Hoc committee is imperative in order to formulate the Draught of the General Guidelines for State Policy (GBHN). The composition of this committee comprises individuals who possess expertise in academia as well as practical experience, with the primary objective of mitigating the occurrence of "post power syndrome." The aforementioned committee will subsequently collaborate with the MPR RI Working Committee, also known as BP-MPR RI. Subsequently, the aforementioned committee formulates the draught of the General Guidelines for State Policy (GBHN), which is subsequently deliberated upon in the General Session of the People's Consultative Assembly (MPR RI) and subsequently formalised as the MPR RI Decree.²²

Please provide additional details. The systematic process of formulating the General Guidelines for National Development (GBHN) involves two key stages. Firstly, the planning phase takes place during a meeting of the People's Consultative Assembly (MPR RI), where the initial groundwork for the GBHN is laid out. Secondly, the MPR RI establishes a commission responsible for drafting the GBHN, which involves the meticulous preparation of the document. The commission in question is commonly referred to as the Constitutional Commission, which can be classified as a form of Ad Hoc committee. Its primary function is to offer a comprehensive overview of the GBHN (General Guidelines of State Policy).²³ The composition of this commission comprises individuals who possess both practical experience

²⁰ Ahmad Ahmad and Novendri M. Nggilu, 'Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution', *Jurnal Konstitusi*, 16.4 (2020), 785 <<https://doi.org/10.31078/jk1646>>.

²¹ Muh Risnain and Sri Karyati, 'Menimbang Gagasan Perubahan Konstitusi Dan Tata Cara Perubahan Konstitusi Republik Indonesia 1945', *Jurnal IUS Kajian Hukum Dan Keadilan*, 5.1 (2017), 110–18.

²² Subanrio and Arie Elcaputra, 'Penataan Kedudukan Dan Kewenangan Majelis Permusyawaratan Rakyat Republik Indonesia', *Supremasi Hukum: Jurnal Kajian Ilmu Hukum*, 30.1 (2021), 66–79.

²³ Efi Yulistiyowati, Endah Pujiastuti, and Tri Mulyani, 'Penerapan Konsep Trias Politica Dalam Sistem Pemerintahan Republik Indonesia : Studi Komparatif Atas Undang–Undang Dasar Tahun 1945 Sebelum Dan Sesudah Amandemen', *Jurnal Dinamika Sosial Budaya*, 18.2 (2017), 328 <<https://doi.org/10.26623/jdsb.v18i2.580>>.

and scholarly expertise. The MPR RI Working Committee (BP-MPR RI) collaborates in the formulation of the GBHN draught. Subsequently, the preliminary General Guidelines for State Policy (GBHN) formulated by the Constitutional Commission or an analogous ad hoc committee in collaboration with the People's Consultative Assembly (MPR) of the Republic of Indonesia is subsequently presented to the MPR for deliberation during the MPR's plenary session.²⁴

The engagement in deliberation can solely be undertaken by the MPR (Members of Parliament) if a quorum of two-thirds of its members is present. If the aforementioned condition is not met, the session will be rescheduled and subsequently conducted in accordance with the established order of the People's Consultative Assembly of the Republic of Indonesia (MPR RI).²⁵ Subsequently, the draught General Guidelines for State Policy (GBHN) that has received approval during the General Session of the People's Consultative Assembly (MPR RI) is subsequently validated through the issuance of a decree in the form of a Presidential Decree (TAP MRI). The ratification process necessitates the approval of two-thirds of the members in attendance, followed by its formal announcement in the official gazette of the Republic of Indonesia. The aforementioned provisions are hereby invalidated and rendered inapplicable, with the necessary adjustments made. The inclusion of a dedicated chapter within the 1945 Constitution is necessary to effectively regulate the Government's Broad Outlines of State Policy (GBHN), as stipulated in the fifth amendment.²⁶ The GBHN is designed to possess a well-defined constitutional basis due to its significant role. Furthermore, the incorporation of the GBHN as a distinct chapter within the 1945 Constitution serves the purpose of safeguarding against the ease with which the institution responsible for issuing the GBHN, namely the MPR RI, can modify its contents through the use of a TAP.

The present inquiry pertains to the legal ramifications associated with the National Development Planning model as outlined in the Guidelines for State Policy (GBHN)

The Indonesian state is characterised by its adherence to the principles of the rule of law. In order to effectively govern, it is imperative that the administration operates within the framework of the law and adheres to a solid legal foundation. In accordance with A.V. Dicey's Introduction to the Study of the Law of the Constitution, the rule of law encompasses certain defining features, namely: 1. The principle of legal supremacy; 2. The principle of equality under the law; 3. The assurance of fundamental human rights. The discourse surrounding the GBHN has arisen as a result of the dissatisfaction experienced by various stakeholders with the development process, which has failed to meet their expectations and lacks coherence in terms of its outputs and outcomes. The development process is often criticised for its excessive focus on the limited perspective of the President or elected Regional Head, leading

²⁴ Happy Hayati Helmi, 'Reformasi Hukum Pertanahan: Pengaturan Komersialisasi Ruang Tanah', *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 8.3 (2019), 381 <<https://doi.org/10.33331/rechtsvinding.v8i3.354>>.

²⁵ Myrna A. Safitri, 'Hak Menguasai Negara Di Kawasan Hutan: Beberapa Indikator Menilai Pelaksanaannya', *Jurnal Hukum Lingkungan Indonesia*, 1.2 (2014), 1-21.

²⁶ Tomi Agustian, 'Implikasi Pengujian Ketetapan MPR Dalam Sistem Ketatanegaraan Republik Indonesia Pasca Putusan Mahkamah Konstitusi No. 75/PUU-XII/2014', *Jurnal Lex Renaissance*, 1.1 (2016), 1-16 <<https://doi.org/10.20885/jlr.vol1.iss1.art1>>.

to significant disparities in development outcomes that fall short of expectations.²⁷

In relation to the legal status of the GBHN as a TAP MPR, which constitutes a component within the legal framework, the formulation of the GBHN must adhere to the prescribed procedures for the establishment of TAP MPR, as stipulated by the legal norms within the existing system of laws and regulations. The formulation of national development planning policies in the GBHN must adhere to established legal regulations, while also being recognised as a political strategic policy. The legality of the GBHN can be observed through the lens of state institutions responsible for formulating it. This legality is established through two primary sources, namely the 1945 Constitution and the MPR Decree.²⁸ The integration of GBHN (General Guidelines of State Policy) into the 1945 Constitution will have significant ramifications on various dimensions of state administration, encompassing both legal and practical domains. Several measures have been proposed to address this issue. One proposal involves incorporating the GBHN (General Guidelines for State Policy) into a dedicated chapter within the 1945 Constitution. Additionally, it has been suggested that the MPR (People's Consultative Assembly) be granted the authority to determine the GBHN through TAP MPR (Decree of the People's Consultative Assembly). This would result in a modification of the legal status of TAP MPR, which is currently not regulated in Article 7 and the accompanying explanation of Law Number 12/2011 regarding the Formation of Legislation. When discussing the TAP MPR, it is essential to analyse its compatibility with the 1945 Constitution and the Law against the TAP MPR. The Constitutional Court serves as the most suitable authority to assess this compatibility. Consequently, any modifications to Article 24C of the 1945 Constitution Chapter IX on Judicial Power will have repercussions on related regulations, including Law Number 48 of 2008 on Judicial Power and Law Number 8 of 2011 on Amendments to Law Number 24 of 2003 concerning the Constitutional Court.²⁹

Another implication of granting authorization to the MPR for the establishment of the GBHN is the potential for amendments to Law Number 17 of 2014, which pertains to the People's Consultative Assembly, the House of Representatives, the House of Regional Representatives, and the Regional People's Representative Council, specifically in relation to the MPR chapter. The existing national development trajectory, as prescribed in Law Number 25 of 2004 regarding the National Development Planning System (SPPN) and delineated in Law Number 17 of 2007 concerning the National Long-Term Development Plan (RPJPN) spanning two decades, is deemed obsolete and will be substituted by the GBHN.³⁰ The

²⁷ Sardjana Orba Manullang and others, 'Understanding Relevancy of Technological Trends in Environmental Conservation Efforts and Business Sustainability in Indonesia: A Systematic Review Study', *Annals of the Romanian Society for Cell Biology*, 25.5 (2021), 2230–40 <https://www.proquest.com/scholarly-journals/understanding-relevancy-technological-trends/docview/2564183325/se-2?accountid=16064%0Ahttp://hw-primho.hosted.exlibrisgroup.com/openurl/44HWA/44HWA_SP??url_ver=Z39.88-2004&rft_val_fmt=info:ofi/fmt:kev:mtx:journ>.

²⁸ Arifin Ma'ruf, 'Legal Aspects of Environment in Indonesia: An Efforts to Prevent Environmental Damage and Pollution', *Journal of Human Rights, Culture and Legal System*, 1.1 (2021), 2021.

²⁹ Lego Karjoko and others, 'Indonesia's Sustainable Development Goals Resolving Waste Problem: Informal to Formal Policy', *International Journal of Sustainable Development and Planning*, 17.2 (2022), 649–58 <<https://doi.org/10.18280/ijstdp.170230>>.

³⁰ Ana Silviana, 'Urgensi Sertipikat Tanah Elektronik Dalam Sistem Hukum Pendaftaran Tanah Di Indonesia', *Administrative Law and Governance Journal*, 4.1 (2021), 51–68 <<https://doi.org/10.14710/alj.v4i1.51-68>>.

discussion surrounding the revival of the GBHN (General Guidelines for State Policy) is inherently linked to the constitutional framework of the Republic of Indonesia following the fifth amendment to the 1945 Constitution. When discussing the General Guidelines of State Policy (GBHN), there exists apprehension among certain individuals regarding the proposition of elevating the MPR (People's Consultative Assembly) to the highest echelon of State institutions. Nevertheless, it is crucial to take into account that the status of the MPR as the foremost State institution is a consequence of Article 1 paragraph (2) of the 1945 Constitution prior to the amendment, which explicitly declares that "Sovereignty resides in the people and is fully exercised by the People's Consultative Assembly." The aforementioned provision of Article 6, paragraph (2) of the 1945 Constitution, which states that "the president and vice president shall be elected by the People's Consultative Assembly through a majority vote," is also impacted by this. The statement posits that, with the necessary adjustments, the president assumes the role of the MPR's mandate.³¹

Based on this elucidation, it can be posited that the positioning of the MPR as the preeminent State institution signifies the MPR's exercise of authority as the custodian of popular sovereignty, rather than in the context of the MPR's determination of the Guidelines for State Policy (GBHN). When discussing the GBHN, it is also implied that the article on regional government will undergo modifications in order to align regional development with the GBHN. This is done to address the lack of alignment and contradictions between the visions and missions of the central government and regional governments, thereby achieving harmonisation between the president and regional heads.

The determination of the GBHN by the MPR is contingent upon the provisions outlined in the article pertaining to the presidential institution. This article mandates that the president must present an accountability report during their five-year tenure, demonstrating adherence to the GBHN. The GBHN is further expounded upon through the president's vision and mission, which are tailored to meet the requirements of the nation and its populace. Subsequently, the president presents his annual report to the MPR pertaining to the president's work programme.³² This naturally has ramifications for the discourse surrounding the topic of impeachment, as it provides grounds for initiating the impeachment process when the president engages in actions that significantly diverge from the guiding principles of the Government Basic Health Norms (GBHN). To ensure the preservation of checks and balances, it is mandated that all prominent state institutions, as outlined in the 1945 Constitution, shall present a transparent accountability report to the public every five years during a comprehensive session of the MPR. This requirement extends beyond the presidency. In relation to the MPR as an institution comprising members from the DPR and DPD, this will also have implications for the articles or regulations pertaining to the DPR and DPD.

³¹ Saldi Isra and Hilaire Tegnan, 'Legal Syncretism or the Theory of Unity in Diversity as an Alternative to Legal Pluralism in Indonesia', *International Journal of Law and Management*, 63.6 (2021), 553–68 <<https://doi.org/10.1108/IJLMA-04-2018-0082>>.

³² Purwoko Aji Prabowo and others, 'Special Autonomy Policy Evaluation to Improve Community Welfare in Papua Province Indonesia', *International Journal of Excellence in Government*, 2.1 (2021), 24–40 <<https://doi.org/10.1108/ijeg-06-2019-0011>>.

Suggestions for Content Material in the Guidelines for State Policy (GBHN) within the National Development Planning model

Prior to delving deeper into the GBHN material, it is advisable to discuss the content material initially introduced by A.Hamid S. Attamimi in the Law and Development Magazine No.3 year IX May 1979, which serves as a translation of "het eigenaardig onderwerp der wet." Subsequently, attention can be directed towards the content material encompassed within the constitution at large. According to A.A.H. Struycken, the constitution, also known as the grondwet, is a formal document that encompasses several key elements. Firstly, it reflects the outcomes of the nation's historical political struggles.³³ Secondly, it represents the pinnacle of the nation's constitutional evolution. Thirdly, it embodies the aspirations of the nation's leaders, both present and future, that they seek to actualize. Lastly, it expresses a collective aspiration to guide the ongoing development of the nation's constitutional framework. Based on the aforementioned points, it can be asserted that the inclusion of the aforementioned matters in the GBHN is imperative, as the GBHN represents a normative framework that is enshrined within the constitution. Furthermore, Miriam Budiardjo posited that within every Constitution, there exist provisions pertaining to various aspects. These include the structural arrangement of the State, such as the allocation of powers among the legislative, executive, and judicial branches, as well as the distribution of powers between the federal and state governments. Additionally, the Constitution outlines procedures for addressing issues related to jurisdictional violations by government bodies. Moreover, it encompasses provisions safeguarding human rights. Furthermore, the Constitution delineates the procedures for amending its contents. Lastly, it may also incorporate restrictions on altering specific attributes of the Constitution.³⁴

Hence, the General Guidelines for State Policy (GBHN) may encompass the aforementioned aspects highlighted by Miriam Budiardjo, particularly pertaining to the structuring of the State and the protection of human rights. When engaging in discourse regarding content material, it is imperative to include an examination of the fundamental tenets of effective state regulation. In his book titled "Het wetsbegrip en beginselen van behoorlijke regelgeving," I.C. van der Vlies categorises the principles involved in the development of effective State regulations into two distinct categories: formal principles and material principles.³⁵ The formal principles encompass the following: 1. The principle of clear objectives, also known as "beginsel van duidelijke doelstelling," emphasises the importance of having well-defined goals. 2. The principle of the right organ or institution, referred to as "beginsel van het juiste organ," highlights the significance of assigning appropriate responsibilities to the relevant authority. 3. The principle of regulatory necessity, known as "het noodzakelijkheids beginsel," underscores the requirement for regulations to be essential and justified. 4. The principle of enforceability, termed "het beginsel van uitvoerbaarheid," emphasises the need for regulations to be practical and capable of being effectively implemented. 5. The principle of consensus, referred to as "het beginsel van consensus," underscores the importance of

³³ Bayu Dwi Anggono, 'The Tenure Arrangement Of Primary Constitutional Organ Leaders In Indonesian Constitutional System', *Constitutional Review*, 2.1 (2016), 029 <<https://doi.org/10.31078/consrev212>>.

³⁴ Fernando Morganda Manullang, 'The Purpose of Law, Pancasila and Legality According To Ernst Utrecht: A Critical Reflection', *Indonesia Law Review*, 5.2 (2015) <<https://doi.org/10.15742/ilrev.v5n2.141>>.

³⁵ Ahmad Fadlil Sumadi, 'Law and Social Justice in Constitutional Law Perspective', *Jurnal Konstitusi*, 12.4 (2016), 853-54.

reaching agreement and obtaining collective consent in decision-making processes. The formal content material encompasses the structure and organisation of the GBHN that is to be established. As previously elucidated, the systematics of the GBHN will be incorporated within a dedicated chapter of the 1945 Constitution, wherein the GBHN is defined as the primary national development planning mechanism. It will be legally enacted as a decree by the MPR, resulting in a tangible product.³⁶

The material content refers to the substance of the material that will be discussed in the GBHN. It encompasses various aspects of national development, including law, politics, economy, socio-culture, religion, education, natural resources, environment, human resources, science and technology development, human rights, state administration by state institutions, regional development, and other matters related to the nation and state. These aspects are addressed within a legally binding framework that guides the direction of the state. According to Hans Kelsen in his work titled "The General Theory of Law and State," he asserts that the material constitution possesses the capacity to not only establish the organs and processes involved in law formation, but also, to some extent, influence the substance of forthcoming laws. In order to facilitate future development planning, it is also possible to include provisions in the constitution. Hence, the proposed fifth amendment to the 1945 Constitution will encompass substantive provisions in its content, taking the form of:

The primary provisions pertaining to the General Guidelines of State Policy (GBHN) in the 1945 Constitution, subsequently expounded upon through the enactment of the Decree of the People's Consultative Assembly (TAP MPR). The national development planning system of Indonesia will adopt the GBHN model, which is mandated for a duration of 20 years as determined by the MPR during the 2014-2019 period. It should be noted that the MPR for subsequent periods is prohibited from modifying the GBHN until the expiration of the aforementioned 20-year timeframe. The implementation of the aforementioned action must be postponed until the conclusion of the determined GBHN period.³⁷

The implementation of the GBHN entails a logical outcome whereby presidential and vice presidential candidates are required to align their vision and mission with the GBHN. Additionally, they must adapt to the prevailing conditions and circumstances that are deemed necessary for the betterment of the nation. The development of the 20 GBHN model long-term national development planning system is divided into two distinct mechanisms, referred to as layered mechanisms. The initial layer will be implemented at regular intervals over a span of five years, following a prioritisation scale established by GBHN. It is crucial that this periodic implementation aligns with the guidelines set forth by GBHN to avoid any conflicts.³⁸ During the execution of the five-year medium national development programme, the president is subject to accountability to the public through a dedicated session of the MPR, serving as a mechanism for checks and balances. In this particular scenario, it is noteworthy that the responsibility of delivering an accountability report extends beyond the president alone. All State institutions, as stipulated in the constitution, are mandated to present their respective accountability reports during the MPR session. The second layer, serving as a more

³⁶ Mariyadi Faqih, 'Nilai-Nilai Filosofi Putusan Mahkamah Konstitusi Yang Final Dan Mengikat', *Jurnal Konstitusi*, 7.3 (2016), 097 <<https://doi.org/10.31078/jk734>>.

³⁷ Subkhan.

³⁸ Aidul Fitriadi Azhari, 'Negara Hukum Indonesia: Dekolonisasi Dan Rekonstruksi Tradisi', *Jurnal Hukum Ius Quia Iustum*, 19.4 (2012), 489-505 <<https://doi.org/10.20885/iustum.vol19.iss4.art1>>.

detailed expansion of the initial layer, takes the form of an annual report that assesses the accomplishments and effectiveness of the executed development programmes. The president, in their capacity as the head of government, presents this annual report during the annual session of the MPR. This report solely presents recommendations from the MPR in the form of input and suggestions.

In the event that the president fails to execute 65% of the stipulations outlined in the Government's Broad Outlines of State Policy (GBHN) within his or her accountability report presented to a designated session of the People's Consultative Assembly (MPR), appropriate sanctions shall be imposed. 1) Sanctions of a subjective nature pertaining to the individual officeholders of the president and vice president. The MPR should issue a special communication highlighting the performance of the president and/or vice president to the supporting party. This communication should be carefully considered and used as a basis for improvement in future candidate nominations. Additionally, it is noteworthy to mention the General Election Commission (KPU) in the event that the incumbent president and/or vice president decide to seek re-election in the subsequent term. If the president and/or vice president are serving their second term, they may face moral sanctions in the form of being held unaccountable by the MPR. Additionally, the party supporting the candidate may face sanctions by being unable to nominate candidates in the subsequent period. The objective of this initiative is to ensure that political parties are actively engaged in the provision of political education and regeneration.³⁹

The impeachment process for the President and/or Vice President is outlined in Article 7A of the 1945 Constitution. According to this provision, the People's Consultative Assembly has the authority to dismiss the President and/or Vice President during their term of office. This can occur upon the proposal of the House of Representatives and/or the Regional Representatives Council, under certain circumstances. These circumstances include the President and/or Vice President being proven to have violated the GBHN (State Policy Guidelines) and committed offences such as treason against the state, corruption, bribery, other serious crimes, or engaging in disgraceful acts. Additionally, if it is proven that the President and/or Vice President no longer meet the qualifications for their respective positions, they can also be removed from office through the impeachment process. The amendment of Article 7A of the 1945 Constitution aims to enhance the legislative role of the Regional Representative Council (DPD) alongside the People's Representative Council (DPR), thereby solidifying the bicameral representative system. Additionally, the amendment proposes granting the DPD the authority to initiate the dismissal of the President and/or Vice President, a power previously exclusive to the DPR.⁴⁰

According to paragraph (1) of Article 7B in the 1945 Constitution The submission of a proposal for the removal of the President and/or Vice President is contingent upon the People's Representative Council and/or Regional Representative Council first presenting a request to the Constitutional Court. This request serves to initiate an examination, hearing, and decision-making process regarding the opinion of the People's Representative Council

³⁹ Muhammad Ridwansyah, 'Upaya Menemukan Konsep Ideal Hubungan Pusat-Daerah Menurut Undang-Undang Dasar Negara Republik Indonesia Tahun 1945', *Jurnal Konstitusi*, 14.4 (2018), 838 <<https://doi.org/10.31078/jk1447>>.

⁴⁰ Kuswanto Kuswanto, 'Consistency of the Presidential System in Indonesia', *Sriwijaya Law Review*, 2.2 (2018), 170 <<https://doi.org/10.28946/slrev.vol2.iss2.67.pp170-182>>.

and/or Regional Representative Council. This opinion asserts that the President and/or Vice President has engaged in unlawful activities such as treason against the state, corruption, bribery, other severe criminal offences, or acts that bring disgrace upon their position. Additionally, the opinion may also contend that the President and/or Vice President no longer meets the qualifications required for their respective roles. Ultimately, the People's Consultative Assembly is responsible for considering the proposal. According to paragraph (2) of Article 7B in the 1945 Constitution, it is stipulated that... The assertion made by the House of Representatives and/or the Regional Representatives Council regarding the President and/or Vice President's alleged breach of the law or disqualification from their respective positions is situated within the framework of executing the oversight role of the House of Representatives and/or the Regional Representatives Council.⁴¹

According to paragraph (3) of Article 7B in the 1945 Constitution, it is stated that... According to Article 7B, paragraph (4) of the 1945 Constitution, the House of Representatives and/or the Regional Representative Council must obtain the endorsement of a minimum of two-thirds of its members present in a plenary session, where at least two-thirds of the total members of the House of Representatives and/or the Regional Representative Council are in attendance, in order to submit a request to the Constitutional Court.⁴² and decide on cases that involve constitutional issues. In the event that the Constitutional Court determines that the President and/or Vice President has engaged in acts of treason against the state, corruption, bribery, other grave criminal offences, or acts that bring shame upon their office, and/or if it is established that the President and/or Vice President no longer meets the qualifications for their respective positions, the People's Representative Council and/or the Regional Representative Council shall convene a plenary session to submit a proposal for the removal of the President and/or Vice President to the People's Consultative Assembly, as stipulated in Article 7B, paragraph (6) of the 1945 Constitution. The convening of a session by the People's Consultative Assembly is mandated for the purpose of deliberating and making a determination on the proposal put forth by either the People's Representative Council or the Regional Representative Council. This session must be held within a maximum period of thirty days subsequent to the receipt of said proposal by the People's Consultative Assembly.⁴³

According to Article 7B, paragraph (7) of the 1945 Constitution The determination of the People's Consultative Assembly regarding the proposition to remove the President and/or Vice President necessitates a plenary session attended by a minimum of three-fourths of the House of Representatives and three-fourths of the House of Regional Representatives. Furthermore, it must be endorsed by at least two-thirds of the members of both the House of Representatives and the Regional Representatives Council. Prior to this decision, the President and/or Vice President are afforded the opportunity to present their explanations

⁴¹ Lego Karjoko, I Gusti Ayu Ketut Rachmi Handayani, and Willy Naresta Hanum, 'Legal Policy of Old Wells Petroleum Mining Management Based on Social Justice in Realising Energy Sovereignty', *Sriwijaya Law Review*, 6.2 (2022), 286–303 <<https://doi.org/10.28946/slrev.Vol6.Iss2.1745.pp286-303>>.

⁴² Ratna Herawati, 'Implikasi Sistem Pengisian Keanggotaan Dewan Perwakilan Daerah Republik Indonesia Terhadap Nilai-Nilai Pancasila', *Masalah-Masalah Hukum*, 44.4 (2015), 393 <<https://doi.org/10.14710/mmh.44.4.2015.393-404>>.

⁴³ Hye Kyung Lee, 'Referring Expressions in English and Korean Political News', *Journal of Pragmatics*, 42.9 (2010), 2506–18 <<https://doi.org/10.1016/j.pragma.2010.02.009>>.

during a plenary session of the People's Consultative Assembly. The amendment of Article 7B paragraphs (1), (2), (3), (4), (5), (6), and (7) aims to enhance the legislative role of the Regional Representative Council (DPD) alongside the People's Representative Council (DPR), thereby reinforcing the bicameral representative system. Additionally, the amendment allows for the submission of proposals to dismiss the President and/or Vice President by the DPR. The scope of authority pertaining to the removal of the President and/or Vice President, which was previously vested solely in the People's Consultative Assembly (DPR), has now been expanded to include a shared jurisdiction between the DPR and the Regional Representative Council (DPD).⁴⁴

The article discussing regional autonomy, specifically Article 18 paragraph (5) of the 1945 Constitution, stipulates that regional governments possess extensive autonomy as outlined in the Guidelines, with the exception of matters that are legally designated as the responsibility of the central government. In order to establish a sense of continuity between the central government and local governments in the implementation of national development initiatives. This article focuses on the Constitutional Court, specifically Article 24C paragraph (1) of the 1945 Constitution, which grants the Constitutional Court the jurisdiction to adjudicate cases at both the initial and final levels. The ultimate determination is to evaluate the compatibility of the MPR Decree with the Constitution, assess the conformity of the law with the Constitution, and examine the compatibility of the Law with the MPR Decree.⁴⁵ The primary functions of the judiciary include resolving conflicts pertaining to state institutions that derive their authority from the Constitution, determining the dissolution of political parties, and adjudicating disputes arising from the outcomes of general elections. This alteration constitutes a legal ramification as the MPR Decree possesses a regulatory character, thereby resulting in a legal void in the examination of legislative norms if this authority is not vested in the Constitutional Court. The Constitutional Court is deemed the appropriate institution to carry out judicial review due to the fact that both the 1945 Constitution and the MPR Decree are products of the same entity, namely the MPR. Amendments have been made to Article III of the supplementary rules, resulting in a change in nomenclature to "Outlines of the State Policy." These outlines are required to be formulated by no later than 17 August 2020. Until the Outlines of the State Policy are established, all pertinent rules remain in effect. However, once the Outlines of the State Policy are formulated, appropriate legal adjustments will be made to the relevant rules. The amendment to the supplementary regulations in Article 1 stipulates that the responsibility of reviewing the substance and legal standing of the Outlines of the State Policy, to be adopted during the 2020 session of the People's Consultative Assembly, lies with the People's Consultative Assembly itself.

4. Conclusion

Regarding the culmination of the aforementioned discourse, there exist multiple dimensions within the primary framework aimed at revising the 1945 Constitution. The considerations presented herein encompass a concise exposition of the fundamental

⁴⁴ Firman Manan, 'Dewan Perwakilan Daerah Republik Indonesia Dalam Sistem Pemerintahan Republik Indonesia', *CosmoGov*, 1.1 (2017), 48 <<https://doi.org/10.24198/cosmogov.v1i1.11860>>.

⁴⁵ Mardian Wibowo, I Nyoman Nurjaya, and Muchammad Ali Safaat, 'The Criticism on the Meaning of "Open Legal Policy" in Verdicts of Judicial Review at the Constitutional Court', *Constitutional Review*, 3.2 (2018), 262 <<https://doi.org/10.31078/consrev326>>.

concepts that underpin the proposed amendment to the 1945 Constitution. These considerations encompass historical, philosophical, sociological, and juridical elements, which collectively serve as the backdrop and rationale for the proposed amendment. According to the fifth amendment of the 1945 Constitution, the MPR continues to hold a prominent position as a significant state institution. However, the delegation of authority to the MPR in determining the GBHN can be seen as a mechanism for implementing checks and balances in the functioning of the state. Based on the aforementioned key points, it can be inferred that Indonesia requires a clear trajectory to guide the execution of sustainable and enduring development, which effectively balances central and regional development, all while upholding the principles of popular sovereignty. Therefore, it is imperative to propose the inclusion of the fifth amendment to the 1945 Constitution, with the objective of rectifying the inherent disparities in developmental progress observed during successive governmental periods, particularly since the reformation era up until the present time. The prudent course of action is to grant authorization to the People's Consultative Assembly (MPR) to establish the framework of the state model of the General Guidelines of State Policy (GBHN) through the formal means of an MPR decree. This will enable the realisation of national ideals and objectives as stipulated in the preamble of the 1945 Constitution.

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