

**RETHINKING THE EXISTENCE OF THE GUIDELINES OF STATE
POLICY (GBHN) TO CREATE A GOOD GOVERNMENT PLANNING**

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**Rethinking The Existence of the Guidelines of State Policy (GBHN) to Create
Good Government Planning**

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ABSTRACT

During the new order, the People's Representative Assembly (MPR) created grand design of the state policy called GBHN as the main guidelines in conducting the national development. Unfortunately, after the end of the new order in 1998 and by the amendment of 1945 Constitution, GBHN itself has been replaced by national long-term development plan (RPJPN) made by the president. It is subject to change as the president is always replaced by another one within four or ten years; it means the planning that has been written down in RPJPN may be terminated by the new president and changed into new ones. The aims of the research is to investigate how importance the GBHN in giving guidance to the government. This is a normative legal research with the descriptive qualitative method. The study reveals that the GBHN was very needed by the government because it had been the major guideline for actuating the planning into the real activities. Moreover it was designed by referring to Pancasila and 1945 Constitution. After the 4th amendment of the 1945 Constitution in 1998, the national development was no longer guided by the GBHN but by Law No. 25 of 2004 on National Development Planning System (SPPN). The research recommends that the government should revive the GBHN as it is mentioned clearly in the Preamble of the 1945 Constitution and its final purpose is to create justice and welfare of Indonesian people.

Keywords: *guidelines of state policy (GBHN), national long-term development plan (RPJPN), national development.*

1. INTRODUCTION

The Guidelines of State Policy (GBHN) had been very important for the general development in Indonesia for several decades. From GBHN the state and all of its agencies derived the national development programs not only for central government but also small districts/villages. It prescribed the detail implementation plans for the whole government agencies. It also had clear guidelines and strategies how to achieve the goals written in the planning.

Historically during the new order¹, the president had implemented the national development programs by using the guidelines mentioned in the GBHN as it was regarded as the second highest guidance of the country after the 1945 Constitution. Nevertheless, since the 4th amendment of Indonesian constitution in 1998, the role of GBHN was halted. The state does not have guidelines in organizing, conducting, and controlling the national development programs like those of GBHN but it is directed merely by the vision and mission of the elected president.

Since the reform era in 1998, it must be admitted that there has been a radical change in the state system. The People's Representative Assembly (MPR), formerly was the highest state institution.² In the old order and during new order era, the People's Representative Assembly has the authority to enact the Constitution and GBHN as it is mentioned clearly in the constitution

¹ New order mean Soeharto era

² Bahaudin, "Menghidupkan Kembali GBHN: Komparasi GBHN dan RPJPN sebagai Kebijakan Politik Hukum Nasional dalam Bidang Pembangunan", *Jurnal keamanan nasional*, Vol. III, No.1, (May, 2017), p. 95.

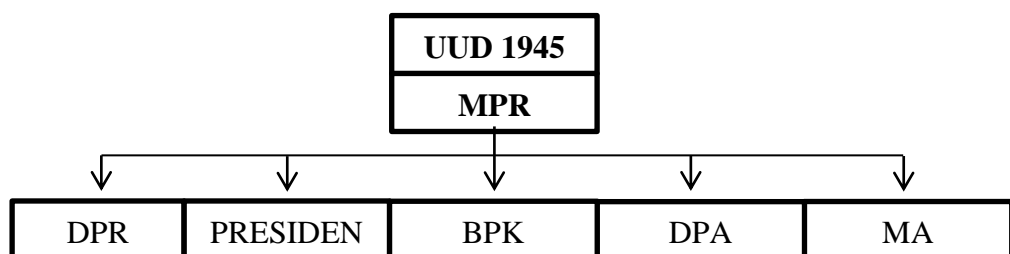
of the state 1945 then it was highlighted in Article 3. In other words, it was obviously seen that the MPR has the authority to make GBHN.

The President made the Planning of National Development Programs based on GBHN made by MPR (MPR Decision).³ Moreover, GBHN was manifestation of the philosophies of Indonesia Founding Fathers. It consisted of goals to be achieved by the nation in various fields such as political, economic, social, cultural and military system. It had been treated as the main reference for the Indonesian development during the Old Order and the New Order. During the reform era, GBHN was then removed from the national agenda through the 1945 constitution amendment since the constitution was accused to be the source of power abuse given to the People's Representative Assembly (MPR) an absolute supreme power in the state. Since then, the Law No. 25 of 2004 on National Development Planning System⁴ has been enacted.

After the 4th amendment, there was a very significant change in the hierarchy of government institutions as seen below;

Figure 1

The Indonesian constitutional hierarchy before the 4th amendment

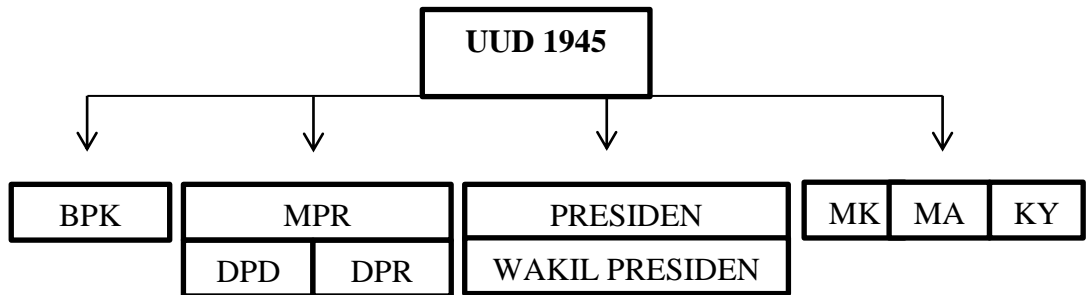


³ Yessi, "Perbandingan Perencanaan Pembangunan Nasional Sebelum Dan Sesudah Amandemen Undang-Undang Dasar 1945", *Fiat Justisia Jurnal Ilmu Hukum*, Vol. 9, No. 1, (March, 2015), ISSN: 1978-5186, p. 75.

⁴ Law No. 25 of 2004 on National Development Planning System

Figure 2

The Indonesian constitutional hierarchy after the 4th amendment



During the Soeharto New Order Era, MPR had the authority to set national development planning system (GBHN) every five years. The MPR made comprehensively national development planning system and instructed the President to implement the planning. After the New Order period passed by, the formulation of the planning then is given to the President and Vice President. As stipulated in the Law No. 25 of 2004 on the National Development Planning System that the President and Vice President are given the task to prepare national development planning and strategy for 5 years or the National Medium-Term Development Planning (RPJMN).⁵

RPJMN is also made by referring to the preamble of the 1945 Constitution, Law No. 17 of 2007 on RPJPN⁶, and Article 15 e of Law No. 42 of 2008 on General Election of President and Vice President.⁷ Those laws demanded the president to have visions, missions and programs for the next five years.

⁵ *Ibid*, p. 90.

⁶ Law No. 17 of 2017 on the National Long-term Development Plan (RPJPN).

⁷ Law No. 42 of 2008 on General Election of President and Vice President.

The absence of GBHN as a product of the MPR had created problems because MPR does not have any authority to produce legal products anymore. Furthermore, in the absence of GBHN, the plannings of national development are assumed be problematic because the state does not have guideline at the implementation phase on how to reach the national goals. Thus, it is important to consider the existence of GBHN for creating good government planning.

2. RESEARCH METHOD

2.1. Type of Research

This type of research is normative legal research. Normative legal research is a legal research that uses the law as the basis for using a variety of secondary data. it will be taken from literature: books, journals, legislation, court decisions, legal theory, and also the opinions of jurists. It is also related to principles, norms, agreement, and doctrines.

2.2. Type of Data

The data which will be used in this research is secondary data. The secondary data consist of primary legal material, secondary legal material, and tertiary legal material. The detail data will explain as follows:

1. Primary legal material consists of regulations as follows:
 - a. The 1945 Constitution
 - b. Law No. 25 of 2004 on National Development Planning

System

- c. Law No. 12 of 2011 on The Regulations of Legislations
 - d. Law No. 17 of 2017 on The National Long-term Development Plan (RPJPN) 2005-2025
 - e. Law No. 42 of 2008 on General Election of President and Vice President
 - f. The various laws related to the Guidelines of State Policy, etc.
2. Secondary legal material consists of several documents that related to the primary legal materials as follows:
- a. Books;
 - b. Scientific journals;
 - c. Other legal documents related the issue;
 - d. Trusted situs internet; and
 - e. Other non-legal documents related to this research.
3. Tertiary legal material, as follows:
- a. Dictionary;
 - b. Encyclopedia.

2.3. Method of Collecting Data

Method of data collection in this research will be conducted through library research by literature learning. This method will collect data by reading, analyzing and trying to make a conclusion

from related documents such as constitution or laws, books, scientific journals and others which related to the main problem as the object of this research.

2.4. Data Analysis

The data will be analyzed systematically through qualitative descriptive approach. Systematically, this research will be analyzed based on constitution, laws, and other theories related to the problem the guidelines of state policy.

3. DISCUSSION

3.1. The Guidelines of State Policy (GBHN)

The Guidelines of State Policy (GBHN) are the planning and implementation strategies of the people's wishes and are integrated to reach the welfare of society.⁸ According to Asshiddiqie,⁹ GBHN is a set of five-year planning as the reference and guideline for the President to carry out national development within 5 year. Based on the MPR decision, GBHN was a policy; it is the precision of steps and targets to realize an ideal of the state and the people. The GBHN was also as tool to achieve the desired future of the country. It serves as code of ethics of how national development should implement the planning accordingly.

Since GBHN had been removed and replaced by Law No. 25 of 2004, the national development planning system is substituted by the

⁸ MPR Decree (TAP MPR) No. IV/MPR /1999, p. 1083.

⁹ Jimly Asshiddiqie is former of Constitution Judges and Professor of Constitutional Law Expert

Long-Term Development Plan (RPJP). The RPJP has the time frame of 20 years but it is divided into short-term and medium-term planning.

3.2. The Legal Basis of The Government Planning

As a developing country, Indonesia is currently working for economic development. Economic development also includes development in the fields of politics, economy, social, culture, defence and security because national development is defined as a series of sustainable development efforts, covering all aspects of community life and state.

National development is conducted with the aim to create a just and prosperous society on material and spiritual based on Pancasila and the 1945 Constitution. The National development also has a foundation for implementing the development plans. Among the foundations for the implementation are:

1. Pancasila as the foundation of ideology of state,
2. The 1945 Constitution as the constitutional foundation,
3. GBHN, MPR Decision No. IV/MPR/1999 which was amended by Law No. 25 of 2004 on National Development Planning System

3.3. National Development Planning before and after the fourth amendment 1945 Constitution

The constitutional amendment in the history of the nation of Indonesia provided fundamental changes to the process of preparing the national development direction. It is based on political changes in the

history of the Indonesian state between democratic politics and authoritarian politics. The political changes have caused legal aspect not only about changes in the law, but also changes in the higher laws and regulations of the MPR and the 1945 Constitution. The amendment of the 1945 Constitution would change the institutional system of the state including the status of the MPR which would have an impact on the loss of the MPR's authority to make the GBHN.¹⁰

The legal basis of the 1945 Constitution amendment is based on article 1 (3) of the 1945 Constitution of the Republic of Indonesia which states: "the Indonesian state is a state law" meaning that the 1945 Constitution becomes the basis of all the provisions of the legislation.¹¹ As a state of law, Indonesia directs its national development to protect the rights of citizens to achieve justice, prosperity and legal guarantees and legal equality for every citizen. The purpose of the establishment of the state of Indonesia is given in the preamble of the 1945 Constitution of the fourth paragraph as follows:

1. Protect the entire nation of Indonesia and the entire blood spill
Indonesia
2. Promote public welfare
3. Educate of the nation

¹⁰ Moh. Mahfud MD, 2017, *Politik Hukum di Indonesia*, Jakarta, Rajawali Pers, p. 375-377.

¹¹ Erna Ratnaningsih, Perbedaan Tujuan dan Arah Pembangunan Hukum Nasional Sesudah dan Sebelum Amandemen UUD 1945, accessed on March, 02, 2018, http://business-law.binus.ac.id/2017/08/27/perbedaan_tujuan-dan-arah-pembangunan-hukum-nasional-sebelum-dan-sesudah-amandemen-uud-1945/#_edn1, at 5.46 p.m.

4. Carry out a world order based on freedom, eternal peace and social justice

To achieve these objectives, the national development should be carried out gradually and continuously. Prior to the fourth amendment of the 1945 Constitution, the direction of national development was established through the guidelines of state policy. After the amendment of the 1945 Constitution, development planning to ensure the achievement of state objectives were regulated through the national development planning system with the issuance of Law No. 25 of 2004 on National Development Planning System which regulates the National Long Term Development Plan. GBHN and RPJPN were essentially the same as guidelines for Indonesian development direction both central and local government.

Changes in the legal basis in national development planning as a substitute for the GBHN after the amendment of the 1945 Constitution caused many pros and cons in the community. With the abolition of GBHN, some parties assess the consistency and continuity have not running well. They had not applied well because the development planning was only mentioned in the law. Laws on national development planning system and the underlying legislation, which development planning, were deemed incapable of ensuring the sustainability and harmony of development between central and regional governments.

These ideas led to the discourse of the revitalization of the more easily understood GBHN to run the national law development for the present.

In the academic texts compiled by the Indonesian Rector Forum 2014, Niki Lukviarman, Professor and Head of Doctoral Program of Andalas University, stated that GBHN was different from Long Term Development Plan. GBHN was a development ideology strategy, while RPJP is a technocratic development strategy. The difference between the guidelines of state policy and the RPJP is very basic. The state's point is ideological while the RPJP point is technocratic. The urgency GBHN was a direction for national development while RPJP contains about the elaboration of national development direction which contains the priority of development work that is "technocratic and pragmatic".

Then Niki Lukviarman said the GBHN are dynamic and holistic because they were discussed every five years by all MPR members representing all Indonesian people. This is different from the RPJP that is more likely to be static because it is in the form of law so that it has the potential to shackle the development planning in the next period of government.

Elfindri highlighted some weaknesses of the national development planning system that took place since the reform era where development plans were formulated based on the vision and mission of the presidential candidate during the presidential election campaign so as

to focus more on medium-term development planning rather than long term. In addition, the vision and mission are limited to the campaign team and do not focus on how the country is built in the long term. As a result, development plans of reform-era have frequently unsustainable.¹²

To carry out the national development, the GBHN was created in 1993. The carefully planned development of the law should be directed to establish a modern national legal order with reference to the ideals of Pancasila law which are capable of providing an efficient and responsive legal framework and rules for the implementation present and future life. The Indonesian National Law Order must contain features:¹³

1. National and archipelagic insight,
2. Able to accommodate the legal awareness of regional ethnic groups and religious beliefs,
3. As far as possible is written and unified,
4. Be rational that includes rationality-efficiency, rationality-fairness (*redelijkheid*), rationality-principle and rationality-value,
5. Procedural rules that ensure transparency that enables rational review of government decision-making processes,
6. Responsive to the development of community aspirations and expectations.

¹² Advertorial, Seharusnya MPR Kembali Berwenang Menetapkan GBHN, accessed on March, 03, 2018, taken from <http://www.tribunnews.com/mpr-ri/2016/06/21/seharusnya-mpr-kembali-berwenang-menetapkan-gbhn>, 1.30 p.m.

¹³ Sunaryati Hartono, 1991, *Politik Hukum Menuju Satu Sistem Hukum Nasional*, Bandung, Citra Aditya Bakti, p. 3.

While the National Development Planning System contained in Article 2 paragraph (4) of Law No: 25 of 2004 on National Development Planning System aims to:

1. Support coordination among development actors,
2. Ensure the creation of integration, synchronization and synergy both between regions, between spaces, between government functions and between the Central and Regional Governments,
3. Ensure linkages and consistency between planning, budgeting, implementation and oversight,
4. Optimize community participation and,
5. Ensure the achievement of the use of resources efficiently, effectively, equitably and sustainably.

There are similarities and differences of the purpose of national development planning before and after the political reform. The equation is responsive and optimizes community participation. While the fundamental differences in the GBHN is formal with a focus on the rule of law in the form of written, unified and procedural mechanisms in the decision-making process. SPPN focuses on the coordination between development actors between the Central and Regional and ensures the achievement of efficient, effective, equitable and sustainable use of resources.

3.4. Rethinking the Guidelines of State Policy (GBHN) to Create Good Government Planning

It is common that every organization, whether on a small or large scale, always needs a planning. The state is an organization too. When an organization (including a country) is not based on a mature, clear, measurable and planned planning pattern and concept, it is almost certain that the direction of the trip and its future is unclear. In the case of planning a country, especially Indonesia, the planning system that is built must be able to reach what the needs of the state and its citizens. Thus, the steps to reach the goal of the state are an on-going basis. Although the demands of the needs of a country are not the same from time to time, it should be understood as a form of the next step that is the main goal to be achieved by a country.¹⁴

In order to realize what has been outlined in the opening of the 1945 Constitution of the Republic of Indonesia as the goal of the country, the Indonesian nation had done a mature planning concept through the formation of GBHN in the past. GBHN became the bow in order to lead the way of travel and state for the next five years. The concepts contained in the GBHN were always updated every five years. The concept contained in the GBHN is then used as the basis for thinking and acting for the government in power in order to realize the general goals of the

¹⁴ Janpatar Simamora, "Urgensi Keberadaan Gbhn Dalam Sistem Ketatanegaraan Republik Indonesia", *Jurnal Litigasi*, Vol. 17, No. 2, ISSN: 0853-7100, (November, 2016), p. 20-21.

Indonesian nation as set out in the Preamble of the 1945 Constitution of Indonesia.

In the discourse on the necessity of the state delivered by Ravik Rasidi, it is emphasized that the need for the GBHN becomes important for several reasons, namely:¹⁵

1. The historical reason that the effort of preparing GBHN has been basically done since the beginning of independence as part of the economic planning model mandated by Article 33 of the 1945 Constitution.
2. The legal reason, where the system is made to replace the state's role GBHN namely the national development planning system such as running ineffectively.
3. The political reason, where the solution to all problems experienced by Indonesia can't be searched from the outside. This nation can only move forward after this nation is able to recognize itself. With the direction of the state, the supervision of the road of development should also be stronger.
4. The social-economic reasons, where every development should be sustainable especially concerning infrastructure on a national scale. The absence of economic development purposes as

¹⁵ Ravik Karsidi, *Inspirasi dan Gagasan Akademisi Peduli Bangsa Wacana Perlunya Haluan Negara*, accessed on Monday, 12 March 2018, taken from <https://uns.ac.id/id/uns-berkarya/wacana-perlunya-haluan-negara.html>, at 3.30 p.m.

mandated by the constitution is mainly due to the deviation of development from the spirit and soul of the constitution.

After the removal of GBHN which is a consequence of the removal of the MPR's authority in determining the GBHN, the concept of national development is legalized through the establishment of Law No. 25 of 2004 on National Development Planning System. It then mandates the existence of a state document on long-term planning for government journey in Indonesia.¹⁶ In order to fulfil the mandate of Law No. 25 of 2004, Law No. 17 of 2007 on the National Long Term Development Plan (RPJPN) was established. The RPJPN law itself was born on the steps taken by the government that submitted the draft of the Draft Law on RPJPN for the years 2005-2025 to the DPR to be discussed together. However, in practice, the existence of Law No. 17 of 2007, including Law No. 25 of 2004, was not able to replace the existence of GBHN as a direction as well as a pointer for governing the wheels of government. In fact, the abolition of GBHN was the foundation for the birth of Law No. 25 of 2004.¹⁷

The weaknesses of Law No. 25 of 2004, especially in article 2, paragraph 4 which had a very broad goal, namely to optimize public participation. In development practice, society is sometimes still regarded

¹⁶ Prayudi, "RJPN Tahun 2005-2025 Sebagai Landasan Pembangunan Politik Memperkuat Demokrasi", *Jurnal Konstitusi*, Vol. 4, No. 3, ISSN: 2442-2274, (September, 2007), p. 24.

¹⁷ Sumardi, "Keterkaitan Kebijakan Perencanaan Pembangunan dan Penganggaran Daerah", *Jurnal of Rural and Development*, Vol. 1, No. 1, ISSN: 1978-9734, (February, 2010), p. 24.

as object not subject. The thinking of the government still considers the community should only be guided, not given instructions and do not need to be involved in the planning, although it concerns the interests of the community itself. Development should place the community as subjects given the space to be involved in the planning, formulation and implementation of the program or development planning. Furthermore, the main weaknesses that have been found in the national and regional development planning system are the lack of integration both of cross-sectorial, inter-provincial and national, as well as between districts and cities. As a result, each development program is defined to be less mutually supportive of each other so that the expected synergies are less able to drive the national development process. It is evident that the development in Indonesia is not evenly distributed and also the number of some areas that still have low wages, lack of education, and the poverty rate is still high. it is because regional and national integration is not good.

This is the reason why the existence of GBHN as the direction of the organization of the country in the future is still needed. GBHN at the time of its enactment came from the MPR and then mandated to the president to be a reference and guidelines to running the national development. The advantages of GBHN was to have a clear pattern of development planning in determining the goals in development theory as

a foundation, as well as stages to achieve development goals.¹⁸ Also, if the GBHN was reinstated, the MPR had the authority to control whether GBHN had been properly implemented by state institutions, especially the president. Although the president is no longer responsible for the MPR, at least within the framework of GBHN, the president gives progress reports to the MPR.¹⁹

The importance of the existence of GBHN in the constitutional system of the Republic of Indonesia has made the Indonesian nation re-conduct in-depth assessment of the effort to restore the authority of the MPR in determining the GBHN. The facts have shown that since the abolition of the GBHN, the direction of government has become less focused. In practice, since the abolition of the GBHN, the government from time to time only able to offer programs that is difficult to measure the success rate and seem to rely solely on the elected president's political program. As a consequence, the programs are subject to change as the new president has his own new programs such as the change of president from SBY to Jokowi. In building infrastructure Susilo Bambang Yudhoyono (SBY) made Master plan of Acceleration and Expansion of

¹⁸ Prabowo, Formula Baru, GBHN dan SPPN Perlu Sinergi, accessed on April, 27, 2018, taken from <https://news.okezone.com/read/2016/04/18/512/1365813/formula-baru-gbhn-dan-sppn-perlu-sinergi>, at 4.20 p.m.

¹⁹ Suryanto, Kata pakar hukum jika MPR kembali tetapkan GBHN, accessed on April, 27, 2018, taken from <https://www.antaraneews.com/berita/568838/kata-pakar-hukum-jika-mpr-kembali-tetapkan-gbhn>, at 5.15 p.m.

Indonesia Economic Development (MP3EI) program but when Jokowi come to the power this master plan is left behind.²⁰

In the period of the New Order government, a series of priority programs set forth in the GBHN had been manifested in the life of the nation and state, for example the concept of the development Trilogy. It was started from dynamic national stability, high economic growth, and equity of development. Indonesian people had also experienced food self-sufficiency. In such situation, the presence of GBHN became one of the important steps as guidelines the national development towards the ideals of reform, especially the ideals of the Indonesian nation as stated in the Preamble of the 1945 Constitution of Indonesia.

4. CONCLUSION AND SUGGESTION

4.1. Conclusion

Based on the previous discussion in chapter four, the researcher comes to the conclusion that the existence of the GBHN in creating a good government planning is very important because it is the guideline of a state to direct the national development in accordance with Pancasila and the 1945 Constitution. After the 4th amendment of the 1945 Constitution, the national development is no longer guided by the GBHN. It is guided by Law No. 25 of 2004 regarding National Development Planning System (SPPN). Therefore, this model of

²⁰ Septian Deni, Program Infrastruktur Jokowi dan SBY, accessed on May, 13, 2018, taken from <https://www.liputan6.com/bisnis/read/2851372/program-infrastruktur-jokowi-vs-sby-mana-yang-lebih-realistis>, at 7.45 p.m.

guidelines depends on the new president and therefore it is subject to change as it depends on the interest of the elected president. To some extents, it may disturb the sustainability of national development.

4.2. Suggestion

To overcome the problem of discontinuation of national guidelines it is important to return to GBHN as the guideline of state. Accordingly, the amendment of the 1945 Constitution is also necessary.

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