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The Urgency of Returning the People's Consultative Assembly Authority in Determining the Outlines of the Nation's Direction

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Abstract

The role of the MPR after the amendments to the 1945 Constitution carried out in the reform era has reduced most of the power of the MPR which was originally as an implementation of people's sovereignty, as stipulated in Article 1 paragraph (2) of the 1945 Constitution. As a result, the MPR of the Republic of Indonesia showed that as a permanent state high institution, although they continue to function as ad hoc organizations. Furthermore, the government's development became unsure and tended to be chaotic after the Indonesian People's Consultative Assembly abolished the power to define the country's direction, prioritizing only the five-year political program. By placing restrictions on the drafting of these provisions, restoring the People's Consultative Assembly of the Republic of Indonesia's power to make decisions, it is hoped that it will become a function of social control of the Citizen. Based on the description above, the following problems are formulated: 1. The urgency of returning the MPR's role to make decisions as a function of citizen social control. 2 Restore the authority of the MPR to make the outlines of the nation's direction as a guideline for state development. In order to discuss this, a historical approach, a statutory approach, and a conceptual approach are combined with a normative legal research methodology.

Keywords: Role of People's Consultative Assembly of the Republic of Indonesia; Outlines of The Nation's Direction; Welfare State.

Introduction

The most significant institution, particularly in relation to other state institutions, is the People's Consultative Assembly (hence referred to as MPR). The discourse on the MPR has started since the pre-independence period (it started since the meeting of the Investigating Committee for Preparatory Work for Independence) until finally, there were parts of its authority being reduced during the reformation period. If you look again at the main agenda of the Investigating Committee for

Preparatory Work for Independence (hereinafter referred to as BPUPKI) sessions at that time, which discussed the preparation of the basis for an independent Indonesia, especially the text of the constitution. One of the materials discussed was the existence of deliberation institutions and people's representatives. Proposed the establishment of an institution that represents the entire Indonesian nation. Moh. Yamin in the BPUPKI General Meeting chaired by Dr. Radjiman on July 11, 1945, proposed that above the Head of State and Deputy Head of State, there is an institution that holds the highest power as representatives of all Indonesian people.¹

Initially, this deliberative institution was named as the People's Consultative Body (BPR) which was proposed at a large meeting of the committee of the state basic drafting.² The People's Consultative Body (BPR) is now known as the People's Consultative Assembly on the second primary draft of the state, nonetheless. This is because "Souvereiniteit," translated as "sovereignty," has changed. In addition to Soepomo, Soekimin also proposed an MPR institution which had been technically agreed to be directly elected by the people and written into this state constitution (UUD). The speech is to negate that all representatives who will be in the MPR institution are really representatives of the people.³ Finally, the MPR was established because it was intended to hold the highest level of popular sovereignty, reflected in the delegation of power to the president and vice president to carry out the people's will.

The Outline of The Nation's Direction (hence called GBHN), established and decided upon by the MPR as the foundation of the mandates to do the authority in the government, is the basis upon which the president and vice president are founded. Before the 1945 Constitution's modification, MPR was the highest governmental entity with complete authority to carry out the people's will and was endowed with

¹ Syukri Asy'ari dkk, *Naskah Komprehensif Perubahan Undang Undang Dasar Negara Republik Indonesia Tahun 1945 (Latar Belakang Proses, Dan Hasil Pembahasan 1999-2002) Buku III Lembaga Permusyawaratan Dan Perwakilan, Jilid 1* (Mahkamah Konstitusi 2010).[52-56].

² *ibid.*

³ Muhammad Yamin, *Konstituante Indonesia Dalam Gelanggang Demokrasi* (Jambatan 1956).[44-46].

the following powers:⁴ 1) Create and amend the Constitution; 2) Create GBHN; and 3) Create GBHN. Vote for the president and vice president. At first, MPR was the highest state institution that held absolute power of the state because MPR was “the embodiment of all the Indonesian people”.⁵

On August 18, 1945, the first president and vice president of Indonesia was established, it was followed by a system of deliberation and representation before the formation of the MPR and DPR is regulated in Article IV Transitional Rules. Before the formation of the MPR, House of Representatives (hereinafter referred to as DPR), and Supreme Advisory Council, all of authority were run by the President with national committee. Through the development of legal politics that occurred at that time, the Central Indonesian National Committee (hereinafter referred to as KNIP) was designated as an institution that carried out the functions of the MPR, this was based on the Vice President’s Declaration Number X 16 October 1945. However, in its development with the changing state system starting from the united republic of indonesia period to the reformation period, the KNIP institution has been eliminated and replaced with a representative and deliberation institution in accordance with the constitutional mandate.

The Republic of Indonesia’s 1945 Constitution stipulates that the country’s state structure must be a sovereign people’s state that upholds popular ideals and is guided by wisdom in discussion and representation. The Republic of Indonesia is a unitary state; to achieve this, a people’s consultative and representative institutions are formed. These institutions are expected to be able to fight for the people’s aspirations within the context of upholding the values of democracy, justice, and people’s welfare.⁶ This line of reasoning created a structure to depict the roles of deliberation and representation in exercising people’s sovereignty, where the Constitution governs the institution’s existence, power, duties, and functions.⁷

⁴ Article 3 paragraph (2), Article 6 paragraph (2), Article 37 paragraph (1) of the 1945 Constitution before the amendment.

⁵ Muh. Kusnardi dan Harmaily, *Pengantar Hukum Tata Negara Indonesia* (Pusat Studi Hukum Tata Negara Fakultas Hukum UI 1983).[120].

⁶ ‘MPR RI’.

⁷ *ibid.*

The state administration structure in Indonesia underwent a significant transformation following the 1945 Constitution, notably with the implementation of the direct democracy system. One effect of this change was that the MPR no longer retained the people's sovereignty. Additionally, the MPR's authority was reduced as a result of the changes made to the 1945 Constitution under the Reformation Order, including:⁸ 1) Amending and clarifying the 1945 Constitution, 2) Install the President and Vice President, and 3) Accept the President's Impeachment for Violations of the President by taking other factors as governed by other laws into consideration. If the legitimacy of the people's sovereignty remains in the hands of the people, despite the 1945 Constitution's modifications, then there is no need for any form of representation. The MPR nevertheless holds the title of a high state institution while no longer being the highest state institution.⁹

Based on this fact, many figures think that the position of the MPR has weakened or if you borrow the term from Warsito,¹⁰ it is "lintuh" which is no longer like the old order or new order.¹¹ As a result of thinking about the weakening of the MPR, there are certain groups who propose and want the MPR to be dissolved and replaced with an *ad-hoc body* that can be formed at any time based on an event that occurs or is *urgent in nature* so that the MPR is obligated to be formed.¹² Ultimately, this institution is in suspended animation to control an enacted policy due to its transition into the MPR institution, which is no longer the highest state institution. The MPR's demise is due to the fact that as a state institution consisting of a collection of people's representatives, it is unable to provide direction and control over policies, especially the development of the country.

Implicitly, The National Long-Term Development Plan (RPJN), drawn from

⁸ Article 3 of the 1945 Constitution of the Republic of Indonesia (post amendment).

⁹ Ni Wayan Merda Surya Dewi, 'Kewenangan MPR Sebagai Pelaksana Kedaulatan Rakyat Pasca Amandemen Ke-4 Uud NRI 1945' (2017) 7 Soshum: Jurnal Sosial dan Humaniora.[2].

¹⁰ Mei Susanto, 'Wacana Menghidupkan Kembali GBHN Dalam Sistem Presidensial Indonesia' (2017) 17 Jurnal Penelitian Hukum De Jure.[427].

¹¹ *ibid.*

¹² Eko Riyadi, 'Reposisi Majelis Permusyawaratan Rakyat (MPR) Dan Implikasinya Terhadap Kedudukan TAP MPR/S Pasca Amandemen UUD 1945' (2012) 1 Supremasi Hukum: Jurnal Kajian Ilmu Hukum.[207–222].

the vision and mission of the elected president and vice president, has taken the role of the GBHN. Despite sharing the same national development direction, GBHN and RPJN come from different backgrounds.¹³ The RPJN is the culmination of the elected president and vice president's vision and mission, whereas the GBHN derives from the MPR's general policy.¹⁴ The question of how the president and vice president will be held accountable now that they have accomplished their tasks and whether the newly elected president will carry on the program of the former RPJN develops. Of course, it will be different if using GBHN, the elected President and Vice President will be charged with continuing the previous program and adjusting the program to the program that has been determined through GBHN. By using the GBHN, of course, the institution of the President's accountability to the MPR must be re-established as a form of report that the President has carried out the mandate of the people as outlined in the GBHN.¹⁵ The MPR's ability to determine the GBHN, formerly under its purview before the amendment was enacted and was eliminated due to it, is one of the responsibilities that have been scaled back. The national goals and objectives for development due to the GBHN's elimination will lack concentration, be unfocused, and be difficult to quantify once they reach a certain level of achievement.¹⁶ Whereas historically, the GBHN has contributed to the success of national development, because basically, the GBHN was created as a guideline for the government in planning or carrying out a national development.¹⁷

¹³ Deny Noer Wahid, [*et.al.*], 'Constitutionality Of President's Authority Regarding Lockdown Policy During The State's Emergency' (2022) 4 The Indonesian Journal of International Clinical Legal Education. [41–60]. Meaning that the President holds a sovereign authority to create and form regulations or laws independently without needing to discuss with the House of Representatives (DPR).

¹⁴ R. Nazriyah, *MPR RI Kajian Terhadap Produk Hukum Dan Prospek Di Masa Depan* (FH UII Press 2007).

¹⁵ R. Nazriyah, 'Penguatan Peran Majelis Permusyawaratan Rakyat Dalam Struktur Ketatanegaraan Indonesia' (2017) 47 Jurnal Hukum & Pembangunan. [39].

¹⁶ Janpatar Simamora, 'Urgensi Keberadaan Gbhn Dalam Sistem Ketatanegaraan Republik Indonesia' (2016) 17 Litigasi. [3427].

¹⁷ Cholid Mahmud, *Reformulasi GBHN: Memperkuat Kedudukan Pedoman pembangunan Nasional, Disampaikan dalam FGD tentang "Reformulasi Model GBHN: Upaya Mewujudkan Kesatuan Sistem Perencanaan Pembangunan Nasional dan Daerah"*, organized by UGM in collaboration with the MPR RI, Yogyakarta, Thursday, September 6, 2012.

The National Long-Term Development Plan (RPJN), the National Medium-Term Development Plan, and other policy formulations have been found to fill the role of the GBHN. Still, they have not yet been able to be developed as a more operational conception to prevent the development process from faltering as a result of the tug of war in the interests of one of the parties.¹⁸ Bagir Manan¹⁹ highlighted that it was challenging to distinguish between the GBHN's existence in the 1945 Constitution (before the amendment) and the people's right to self-determination, then Bagir Manan explained that "the desire of the founders of the State and drafters of the Constitution for create and organize the people sovereignty who are directed and guided". So it can be concluded that the MPR continues and always pays attention to the dynamics that occur in the social community which will eventually be discussed in what kind of development is needed by the citizen which will be spawned in the GBHN.²⁰

On the empirical facts, since the implementation of the GBHN made by the MPR by taking into account all developments or dynamics that occur in the social community until the abolition of the GBHN, even with the authority of the MPR as an institution, there is still no loopholes or failures have been found from the GBHN.²¹ In addition, if the GBHN is re-enacted and the authority is given back to the MPR, it will further strengthen the programs that will be carried out by the government based on the GBHN. As for the explanation of the background, the author formulates the formulation of the problem, namely How to Reactivate the role of the MPR to form and establish the GBHN in order to facilitate National Development.

This is what is currently missing in the administration of the state. If considering to the existing development, it's obliged to consider the guidelines which are more

¹⁸ Simamora (n 16).

¹⁹ Rizki Daniel, 'Comparison Of Urgence Of Gbhn For National Development' (2022).[6].

²⁰ *ibid.*

²¹ Mardian Wibowo, *Kebijakan Hukum Terbuka Dalam Putusan Mahkamah Konstitusi* (Rajawali Pers 2019).[102].

or less the result of people's representation.²² GBHN has the potential to serve as the catalyst and a breakthrough for all future efforts to realize the nation's aspirations, as stated in the 4th paragraph of the 1945 Constitution. Until finally, the activation of this GBHN will not only focus on physical development or infrastructure, but it will also extend to the pattern of community development to the realization of a civil society as expected.

As far as the author observes, the material or paper that discusses the urgency of returning the MPR's role, including the authority to form the GBHN by the MPR in the constitutional system in Indonesia, has been widely discussed by several authors. For example, as in the journal entitled "*Penguatan Kelembagaan MPR dalam Sistem Ketatanegaraan Negara Republik Indonesia*"²³ also in the journal entitled "*Wacana Menghidupkan Kembali GBHN dalam Sistem Presiden Indonesia*"²⁴ and several other journals. However, if the author looks at and identifies the papers that discuss the role of the MPR in forming the GBHN, they still focus on discussing the return of the MPR's role as in the 1945 Constitution before the amendment and also only discussing the urgency of the existence of the GBHN in the constitutional system of the Republic of Indonesia without looking at the amendments to the 1945 Constitution with a system of *checks and balances*.

Most of these studies are still polarized towards the return of the authority to make the GBHN by the MPR as a basic guideline as was the authority of the MPR before the amendment. Therefore, here the author presents a different formulation to restore the function of the MPR as forming the GBHN which actually does not contain the state's vision for state development, because the state's vision is clear in the preamble to the 1945 Constitution. But the material that must be in the GBHN should be about tactical strategies how to create that vision (mission).

²² Moh. Mahfud MD, *Menguatkan Pancasila Sebagai Dasar Ideologi Negara* (2011) 52 Magazine Court Constitution.[8].

²³ Galang Asmara, 'Penguatan Kelembagaan MPR Dalam Sistem Ketatanegaraan Negara Republik Indonesia' (2015) 1 Hasanuddin Law Review.[357].

²⁴ Mei Susanto, 'Wacana Menghidupkan Kembali GBHN Dalam Sistem Presidensial Indonesia (The Discourses Revive the DPSP in the Presidential System of Indonesia)' (2017) 17 Jurnal Penelitian Hukum De Jure.[427].

In relation to the idea of this research, it is known that previous studies discussed the following matters: the meaning and position of the GBHN,²⁵ revival in the GBHN,²⁶ the urgency of the GBHN in the Indonesian constitutional system.²⁷ According to the earlier studies mentioned above, no research has addressed the MPR's authority in creating the GBHN as a tactical approach to realizing that vision (mission) for achieving sustainable national development by a democratic legal state and the idea of a welfare state. This study aims to learn about the role of state institutions as a form of institution that is more dynamic in nature in the state administration arena in Indonesia, including also aims as a critical idea by the author that existing state institutions must function properly.

Based on the description above, the discussion in this article will begin with the urgency of restoring the role of the MPR as a state institution that has a social control function for citizens. Furthermore, this article will continue with a discussion of efforts to restore the MPR's authority to make GBHN a guideline for state development. Consequently, it will become clearer from the discussion in this article that the GBHN plays a crucial role in state development. In this article, the research process employs a normative-legal approach, using primary legal material made up of laws and regulations as well as secondary legal material made up of literature, as well as elaborated with empirical facts in the field to support the analysis and make it more thorough when creating legal arguments to address issues.²⁸

The approaches used are historical, legislative and conceptual approaches. The research was conducted with various efforts to achieve coherence truth by linking the results of the identification of harmony between applicable regulations and legal norms and/or facts prevailing in society.²⁹ Researchers analyze legal

²⁵ I Wayan Sudirta, 'Makna, Kedudukan, Dan Implikasi Hukum Haluan Negara Dalam Sistem Ketatanegaraan Indonesia' (2020) 7 *Jurnal Yuridis*. [258-278]. <https://doi.org/10.35586/JYUR.V7I2.2252>.

²⁶ Susanto (n 10).

²⁷ Harry Setya Nugraha, 'MPR dan Urgensi Garis Besar Haluan Negara Dalam Sistem Ketatanegaraan Indonesia' (2019) 5 *Veritas et Justitia*. [191-217]. <https://doi.org/10.25123/VEJ.V5I1.3293>.

²⁸ Johnny Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif* (Bayumedia 2007).

²⁹ Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi* (Kencana 2017).

materials using a deduction pattern to explain numerous regulatory rules related to legal issues and subsequently to explain legal facts. Legal materials analysis organized systematically, orderly, logically, carefully, and explained holistically and in detail. Thus, the reasoning pattern is organized systematically so as to conclude the legal issues studied.³⁰

GBHN As Central Task By MPR

After the amendments were carried out four times started since from 1999-2002, it created so many fundamental changes, including changes at the state institutions level, it also affected the MPR which was originally as the holder of full power to administer people's sovereignty and as the highest state institution, has been reduced to as a state high institution. only those whose positions are in line with other state institutions, as mentioned in the 1945 Constitution.³¹ One of the things that the author uses as a pressing point is the formulation of the problem, namely the revocation of the authority of the MPR RI in making guidelines and directions for national development policies those are created with the GBHN.³²

Due to the MPR's loss of its position as the state's top institution, the RI could no longer create the GBHN. The President has the authority to choose the course for national development to be taken as long as it has been mutually authorized by the DPR and is permitted by law. The National Long-Term Development Plan, which was eventually discovered to be the National Medium-Term Development Organization, is now commonly regarded as the direction of national development.³³ Refer to the historical basis, the GBHN was once contained in Article 3 of the

³⁰ Dinda Fefty MP Fradhana Putra D., Dedi Joansyah P., Sahril Wildani, Ana LaelaFatikhatul C., Alfiah Yustiningrum, 'View of Tripartite Collaborative Institutions: Skema Konvergensi Institusi Untuk Mewujudkan Ketahanan Siber Indonesia' (2021) 18 *Istinbath Jurnal Hukum*. [194-215].

³¹ The amendments or amendments to the 1945 Constitution carried out by the MPR RI in the Reformation era were changes with the type or model of an addendum. Addendum is a mechanism for amending the 1945 Constitution which still retains the original text. <<https://bantuan Hukum-sbm.com/article-amandemen-undang-dasar-negara-republik-indonesia-tahun-1945>>. Accessed on 23 May 2022.

³² *ibid.*

³³ Nugraha (n 22). [26].

1945 Constitution (before the amendment) which stated explicitly that “ *the MPR stipulates Constitution and policies national.*” on the other hand, the provisions of the GBHN that was developed by MPR were not actually made into a GBHN document until 1960, because at that time, the MPR had not yet been formed. Thren, through the Article 1 of Presidential Decree No. 1 of 1960, the GBHN document was introduced by President Soekarno.

The inclusion of the new order era along with the Suharto’s dominion as a president replacing President Soekarno, GBHN is the main foothold in the field of preparing activities in building the archipelago’s binoculars. So that in the field of legal politics in development becomes neatly organized and runs directed and sustainable.³⁴ The national development during the New Order era had its own strategy, the strategy promoted during the New Order such as the Development of the Five-Year Plan or Repelita. In the late 1960s and early 1970s, the first Repelita focused on agricultural development which then led to rice self-sufficiency and Indonesia’s economic growth of more than 7 percent.

Theoretically, the inclusion of the GBHN is the embodiment of the trias politica concept coined by Montesquie. The opinion of Montesquieu hint that that the three functions of state power must be institutionalized in three state organs, where one state institution only allows it to carry out one function and is not prohibited from interfering in each other’s affairs in an absolute sense. However, this conception is only used as a supplement because each power continues to carry out their respective main tasks. Using the “checks and balances” idea is a concrete example of this. If one looks at American constitutional law, the Senate’s primary responsibility is to pass legislation. Still, it also has additional authority to carry out “impeachment,” which is separate from its primary duty. Likewise, the main function of the President of the United States has not changed, although he also has the right to veto bills that have been approved by Congress.

³⁴Bahaudin, ‘Menghidupkan Kembali GBHN: Komparasi GBHN dan RPJPN sebagai Kebijakan Politik Hukum Nasional dalam Bidang Pembangunan’ (2017) 3 Jurnal Keamanan Nasional.[85-108].

The same thing is also applied in Indonesia, where in certain fields there are times when these institutions or agencies work together. For example, the relationship between the DPR and the President in making laws and determining the RAPBN to become the APBN.³⁵ So that the pure separation of powers model initiated by Montesquie will have the opportunity to give birth to a form of arbitrariness within each state institution. This shows that the theory of separation of powers will not always be able to create a just government.³⁶ Thus, based on this description, the theory of separation of powers has an important role in discussing the existence and urgency of the GBHN, which originally, it was the authority of the MPR. As a parliamentary institution that represents the people's will to be processed and used as a basic guideline for the government in its work.

Indeed, the GBHN's decision did not escape the political configuration of its time. However, if refers to the objectives of the GBHN, there is no need for debate. Because in general and in its entirety, the GBHN has been aimed at realizing a just and prosperous Indonesian nation.³⁷ Thus, from this argument, the author assumes that the existence of the GBHN is urgent for the Indonesian state. GBHN shows its identity as country's direction based on history.³⁸ If through the State Administrative Law's point of view (hereinafter referred to as HAN), the treasury of HAN has long introduced basic principles as the basis for administering government which is commonly referred to as *besturen is planen*.³⁹ The principle strengthens the urgency of the importance of a plan's meaning in government's administration.⁴⁰

³⁵ Abdul Rasyid., *Wewenang Mahkamah Konstitusi Dan Implikasinya Dalam Sistem Ketatanegaraan Republik Indonesia*.(Citra Aditya Bakt 2006).

³⁶ *ibid*.

³⁷ Fradhana Putra D., [et.al].(n 30).

³⁸ Simamora (n 16).

³⁹ The meaning of *besturen is planen* "To govern is to plan". See Nugraha, "Rekonstruksi Kelembagaan dan Kewenangan Majelis Permusyawaratan Rakyat Dalam Sistem Ketatanegaraan Indonesia (Tesis, Program Magister Ilmu Hukum Program Pascasarjana Fakultas Hukum).

⁴⁰ W. Riawan Tjandra, *Potensi Distorsi Revitalisasi GBHN*, Proshiding *Focus Group Discussion Ketatanegaraan: Reformulasi Sistem Perencanaan Pembangunan Nasional Model GBHN dan Tata Cara Perubahan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*. Kerjasama Badan Pengkajian MPR RI dengan Asosiasi Pengajar Hukum Tata Negara dan Hukum Administrasi Negara wilayah Yogyakarta (2016).[23].

The GBHN established by the MPR was used to put this idea into practice before the 1945 Constitution's modification, theoretically and historically, inside the Indonesian constitutional structure. However, this idea is presently applied through the President's national development planning system. It is based on a planning system separated into time categories and hierarchies after the revision to the 1945 Constitution, particularly after the third amendment. Generally speaking, the GBHN is a declaration of the will of the people, with Pancasila as its ideal foundation and the 1945 Constitution as its constitutional foundation. The planning system known as the GBHN was finally abandoned along with the growth of Indonesia's constitutional dynamics. It is impossible to isolate the abandonment of the GBHN from the modification of Article 3 Paragraph 1 of the 1945 Constitution.⁴¹

Whatever began as the Long-Term Development Plan as part of the national development planning system is still strong after the MPR's power to create the GBHN was abolished. According to the explanation of one general provision of Law No. 17 of 2007, which serves as the legal foundation for the National Long-Term Development Plan for 2005–2025, the GBHN was eliminated as a guideline for national development. The Unitary State of the Republic of Indonesia strengthened regional autonomy and decentralized government to maintain sustainable growth. This is by Law Number 25 of 2004 on the National Development Planning System, which mandates the creation of a National Long-Term Development Plan that follows a visionary planning paradigm and only comprises an outline direction. The execution of development that has already taken place, meanwhile, is insufficient to declare that it has been able to take the location of the GBHN.⁴²

If we look back at the history at the time of the implementation of the GBHN, in general, the GBHN as a guide for national development has been successful

⁴¹ *ibid.*

⁴² Article 4 of Law Number 25 of 2004 concerning the National Development Planning System. It is stated that the National Long-Term Development Plan was prepared as an elaboration of the formation of the Indonesian state as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia in the form of a national vision, mission and direction. Thus, this document is more visionary in nature and contains only the basics, thus providing sufficient flexibility for the preparation of the medium-term and annual plans.

and has a very vital role in building the Indonesian state, not only in terms of infrastructure but also in terms of the socio-cultural aspects of the community. Although basically the abolition of the authority of the MPR RI made the GBHN one of the basics because the MPR RI is no longer the highest state institution as before the amendment.⁴³ Additionally, it is predicated on modifying the process through which the President and Vice President are chosen through elections. The President and Vice President can now translate their ideas, missions, and political pledges made during their campaigns, which will likely overlook sustainable development programs because they are no longer accountable to the MPR RI.⁴⁴ According to the author, because they are based on five-year political interests as a political contract that must be fulfilled by the elected President and Vice President, the National Long-Term Development Plan and the National Medium-Term Development Plan always encounter failure or deadlock in their implementation.

According to the author's opinion, it is quite reasonable if the return of the role or the authority of the MPR RI to re-create the basic guidelines for national development as a protector of national development programs that have been and will be running. If considering to the current developments, because in order to avoid the arrogance/arbitrariness of the MPR institution itself, this GBHN can also be re-created as a driving force and a breakthrough for the success of the country's development. Thus, the reactivation of the MPR as an institution that makes the GBHN is only carried out as a technical strategy for state development. Then, in order to grant the authority to make GBHN to the MPR RI, does not mean re-activating the MPR RI institution as the highest state institution, but it will be implemented based on cooperation and joint discussion between the legislature and the executive as a guideline characterized by checks and balances. Because the key to the final decision on national politics, in real politics, lies in the hands of the

⁴³ Susanto (n 10).

⁴⁴ *ibid.*

executive and the DPR, even though it seems formally approved by the MPR RI.⁴⁵ At the end, the return of the MPR function made the GBHN stick to the checks and balances concept. Therefore, the author believes it will be necessary to maintain this authority as part of the MPR's constituent in the Indonesian constitutional system to achieve sustainable national development in line with a democratic rule of law and the welfare state concept.

The Urgency of Reactivating the Role of the MPR

The responsibilities and functions of the MPR have significantly decreased due to the 1945 Constitution Amendments that were implemented between 1999 and 2002, as already indicated in the introduction. This is because the MPR initially had a lot of power. After all, it was a body that exercised the people's full sovereignty. Eventually, however, the MPR accommodated and handled all issues involving the interests of the people, including the election of the President and Vice President, which was also based on an election conducted by the People's Consultative Assembly. MPR is a symbol of the power of the people.

The influence of the MPR was indeed very powerful at the time before the amendment was carried out, this was proven by one of the policies of the MPR through its stipulation that it could control the social community from the threat of national disintegration. The role of the MPR has existed since it was still in the form of an embryo in the form of KNIP in the historiography of the Indonesian state administration. The problems that arise in the political dynamics of the MPR are influenced by the power of the President, reflecting the state of Indonesia's state administration during the Old Order and the New Order which tended to be authoritarian. Soekarno placed the Temporary People's Consultative Assembly legal instrument as a tool for building a political system. Meanwhile, Suharto built an authoritarian political system more carefully in a way that formally appeared constitutional in The Decision Of The People's Consultative Assembly (hereinafter

⁴⁵ Mahfud MD, *Politik Hukum* (Rajawali Pres 2020).[347].

referred to as TAP MPR), but substantially it was not in line with the values espoused by the constitution and ideology.⁴⁶

The TAP MPR which is a legal product of the MPR was superior during the reign of the old and new order, because basically, this TAP MPR product is a form of legislation which in practice is binding inward (Beshikking) and binding outward (Regelling).⁴⁷ As a result of the superiority of the MPR as outlined in the TAP MPR as a legal product, it has become the basic reason for making amendments to the role and position of the MPR in the reform era. Muchammad Ali Syafa'at⁴⁸ in his book states that there will be five juridical consequences in the state administration system in post-amendment Indonesia. One of the five things mentioned is that the position of the MPR RI is no longer the highest state institution. People's Sovereignty is held by a high state institution whose authority is given attribution by the constitution. So that there is no longer a vertical institutional hierarchy in the Indonesian constitutional system and every high state institution applies the principle of checks and balances).⁴⁹

After the Amendment to the 1945 Constitution, the MPR RI currently only has administrative powers, for example, inaugurating and dismissing the President and Vice President, in which the ceremonial process is routinely held every five years.⁵⁰ The MPR RI also possesses the power to amend and add conditions to the 1945 Constitution. However, since the last amendment to the 1945 Constitution, the authority to alter and stipulate it has yet to be put into practice. The fifth amendment

⁴⁶ Moh. Mahfud M. D., 'Membangun Politik Hukum, Menegakkan Konstitusi' (LP3ES, 2006). [311].; Akmal Rudin, 'Analisis Yuridis Tentang Kembalinya Ketetapan Majelis Permusyawaratan Rakyat (TAP MPR) Dalam Hierarki Peraturan Perundang-Undangan Di Indonesia (Studi Yuridis Pasal 7 Undang-Undang Nomor 10 Tahun 2004 Dengan Pasal 7 Undang-Undang Nomor 12 Tahun 2011)' (Universitas Islam Negeri Sultan Syarif Kasyim, Riau 2015).[52].

⁴⁷ Riri Nazriyah, *MPR RI – Kajian Terhadap Produk Hukum Dan Prospek Di Masa Depan* (Penerbit UII Press 2007).[52].

⁴⁸ Muchamad Ali Safa'at, 'Position MPR Decree in System Regulation Indonesian Legislation' (Brawijaya University 2013).[1].

⁴⁹ *ibid.*

⁵⁰ Nurul Ula Ulya, [et.,al]., 'Peranan Tap Mpr Yang Bersifat Mengatur Sebagai Bentuk Aerodinamika Hukum' (2013).[1–13].

to the 1945 Constitution of the Republic of Indonesia is merely a discussion.⁵¹ If the author makes an analogy that this MPR institution is like a fire department, which works passively in the sense that it only waits for reports of disturbances from the citizen and acts incidentally. The dilemma of the constitutional role of the MPR RI actually shows the position of the MPR RI as a permanent high state institution, but works like an ad-hoc institution.⁵²

It is very sad actually with the facts that occur, the abolition of the GBHN policy by the MPR through the amendment of the 1945 Constitution of the Republic of Indonesia is actually caused by the concept of separation of powers based on Monstequie's Trias Politika theory.⁵³ Even the elimination of the GBHN was to eliminate the stigma that the president was no longer a "mandate" from the MPR. In fact, the maintenance of the GBHN policy by the MPR will certainly have an impact on national development that is more directed and systematic. According to Deddy Supriyadi,⁵⁴ GBHN is a way for the populace to express their desire to be the primary source of inspiration for all government initiatives aimed at achieving the country's and state's objectives, which are expressly expressed in the preamble of the Republic of Indonesia's 1945 Constitution.

Before the amendment, the provisions of Article 3 of the 1945 Constitution served as the foundation for the MPR's authority to create the Guidelines.⁵⁵ The establishment of the GBHN from the beginning was intended to provide a clear

⁵¹ Mohammad Maiwan, 'Wacana Amandemen Kelima Undang-Undang Dasar 1945 Sebagai Langkah Mewujudkan Arsitektur Konstitusi Demokratik' (2013) 12 Jurnal Ilmiah Mimbar Demokrasi [68].

⁵² Dodi Faedulloh, *Quo Vadis Kewenangan MPR? Mengembalikan Kedaulatan Rakyat*, pp.1-2. Paper submitted in *Focus Group Discussion* organized by and taking place at the MPR RI with : theme " *Reinforcement The authority of the MPR as Implementing the Principle of People's Sovereignty and Understanding Democracy Constitutional* ", Jakarta, November, 26th 2015.

⁵³ Imam Subkhan, 'GBHN Dan Perubahan Perencanaan Pembangunan Di Indonesia' (2014) 5 Aspirasi.[131].

⁵⁴ Deddy Supriady Bratakusumah, 'Implikasi Perubahan UUD 1945 Terhadap Sistem Perencanaan Pembangunan Nasional' (2003).

⁵⁵ Lutfil Ansori, 'Reformasi Penegakan Hukum Perspektif Hukum Progresif' (2018) 4 Jurnal Yuridis.[148].

direction for the nation's journey for the next five years.⁵⁶ Thus, it can be understood that the GBHN is a guide to the direction of the nation's journey in accordance with what the people want, especially the wishes of the competent parties in its formation. Given that the MPR is a political institution, it is certain that the substance in the Guidelines cannot be separated from the political elements that emerged at the time of its implementation.⁵⁷

Even so, the political elements contained in the GBHN are not veiled. This is because the political elements contained will be carried out officially with the principle of transparency by the MPR, considering that with the development of technology today all levels of society, as well as the international community can access, read and understand how the actual condition of the Indonesian nation from time to time.⁵⁸ If we look at the past few decades, especially during the power held and run by the New Order government, the MPR has issued six GBHN policy products, starting from the 1973 GBHN, 1978 GBHN, 1983 GBHN, 1988 GBHN, 1993 GBHN and 1998 GBHN. The stipulation of the GBHN at that time was carried out continuously and continuously in every 5-year period. Although there was a change in the constitution several times during the New Order period, the ideological aspects and objectives of national development did not necessarily change.⁵⁹

If we look at the history of the nation in 1998 with the reform accompanied by the transfer of power from the new order to the reform government, the MPR succeeded in establishing the GBHN for 1999-2004.⁶⁰ In this case, the GBHN was established to give guidance for state implementation with the

⁵⁶ Nadia Ninna Ocktavia, 'Tinjauan Siyasah Dusturiyah Terhadap Perbandingan Sistem Perencanaan Pembangunan Nasional Di Era Orde Baru Dan Reformasi' (2016) 6 Jurnal Penelitian Pendidikan Guru Sekolah Dasar.[128].

⁵⁷ Ilham Dwi Rafiqi, 'Criticisms toward the Job Creation Bill and Ethical Reconstruction of Legislators Based on Prophetic Values' (2021) 29 Legality : Jurnal Ilmiah Hukum.[144].

⁵⁸ Susanto (n 24).

⁵⁹ J Philip Wogaman, *Christian Perspectives on Politics* (revised, 2000).

⁶⁰ Ni'matul Huda, 'Dinamika Hubungan Kewenangan Pusat & Daerah Dalam Penyelenggaraan Pemerintah Daerah', *Prosiding Seminar Nasional & Call For Papers Kenegaraan Titik Taut Hukum Tata Negara dan Hukum Administrasi Negara dalam Penyelenggaraan Pemerintah Daerah* (Universitas Islam Indonesia 2021).

goals of realizing democratic life and social justice, defending human rights, and upholding the rule of law in the manner of a civilized, noble, independent, free, advanced, and prosperous society and nation for the following five years. Of course, there has been a change from the previous GBHN, with the 1999 GBHN being more focused on a democratic, egalitarian existence and equipped to safeguard human rights.⁶¹

Thus, strengthening the MPR's position and existence by granting the power to choose the GBHN is to avoid returning the MPR to its historical institutional configuration as the highest state entity, but must be interpreted in order to build the existence of the MPR in the future. This understanding must be straightened out and emphasized so that a wrong opinion does not arise which can then hamper efforts to revive the existence of GBHN in the future.

Instead of amending the 1945 Constitution by reducing most of the role of the MPR to avoid the absolute power, it has actually made a boomerang against the newest role of MPR. According to Dodi Faedulloh, he suggested the institutional reconstruction of the Indonesian People's Consultative Assembly in the Indonesian constitutional system so that it could return to run the People's Sovereignty as a Public Sphere assembly through the determination of the GBHN as guidelines.⁶² Furthermore, the same thing was also conveyed by Suko Wiyono, the MPR can essentially carry out the actualization of the People's Sovereignty in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia through the TAP MPR as a form of dynamics in Indonesia's constitutional aspects by restoring the function of the MPR, namely compiling and establishing the GBHN. This will demonstrate the MPR RI's role as a "motorcycle and dynamist" in the dynamics of the Indonesian state administration as the application and realization of the Pancasila democracy concept. This position has not previously been demonstrated in practice. The reconstruction of the People's Consultative Assembly's power to create the TAP

⁶¹ Nugraha (n 27).

⁶² *ibid.*

MPR is the subject of Prof. Suko Wiyono's recommendation, and revisions to this issue fundamentally have a constitutional basis.⁶³

This is what makes the point of emphasis by the author as a discussion in this paper by suggesting an ideal construction of the constitutional system by re-activating the role of the MPR but not as absolute as before the amendment. The reconstruction underlies the expansion of the authority of the MPR institution. The MPR can eventually maximize its role as an assembly that serves as a driving force and dynamicator of people's sovereignty to maintain the dignity of the mandate of the Indonesian people and can become a stabilizer of conflicts that arise in the community so that the MPR is no longer a permanent state institution with an ad hoc nature. The author's opinion here is to bring back the authority of the MPR in forming decisions by limiting the making of these decisions with certain limitations.

Also, the urgency of restoring the formation of the GBHN by the MPR is also related to the misalignment of development which today between the central government and local governments with the principle of autonomy has a direction that is not in line.⁶⁴ The increased conflict of interest between the federal and local governments will threaten the community's well-being. Indeed, RPJMN has replaced GBHN in terms of national development guidelines, but the problem is regional autonomy, so it is possible that each region will form a Regional Medium-Term Development Plan (RPJMD) according to their own version.⁶⁵

If the GBHN is still valid, then of course it can be ascertained that both the president, governors and regents and mayors will form the RPJMN and RPJMD which refer to the GBHN as the state direction. By basing its views on this description, this paper will discuss how the real urgency of the existence of the

⁶³ Suko Wiyono, *Kedaulatan Rakyat dan Wewenang MPR dalam Dinamisasi Penyelenggaraan Negara Menurut Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, Pg.9. Paper submitted in *Focus Group Discussion* organized by the Center for the Study of the MPR RI in collaboration with the Center for the Study of Pancasila and Laboratory of Pancasila State University of Malang, Malang, May, 3th 2016.

⁶⁴ Mahesa Rannie, 'Hak Prerogatif Presiden Di Indonesia Pasca Perubahan UUD 1945' (2020) 27 *Simbur Cahaya*. [98].

⁶⁵ Deny Noer Wahid, 'Judicial Partner: Aktualisasi Nilai Pancasila Terhadap Pembentukan Badan Pembinaan Ideologi Pancasila' (2023) 3 *Pancasila: Jurnal Keindonesiaan*. [57].

Guidelines for State Policy (GBHN) in the constitutional system of the Republic of Indonesia.

Reconsideration of presenting or making decisions (TAP) is based on considerations of the historical-juridical side of the existence of the authority given to the MPR RI.⁶⁶ Apart from the debates and pros and cons among academics regarding the authority to make the TAP, the authors consider the effectiveness of this TAP MPR product. This was proven when the TAP MPR was issued to dispel the notions that would threaten the existence of the Pancasila ideology as the basis of the state, such as leftist ideology which was effectively limited by TAP MPR XXV/MPRS/1966 through the supervision carried out to date. Even with the success of the TAP MPR which decided and established the GBHN as a guideline in national development.⁶⁷

According to Jimly Asshiddiqie, the MPR RI does not have a constitutional basis for discussing the TAP MPR, either making, revoking or amending the TAP MPR. However, in such a condition, the logical consequence is that it is possible to add the authority of the MPR RI through legislation that is higher than the TAP MPR, namely the 1945 Constitution of the Republic of Indonesia. So, the only way is to amend and add the authority to make a TAP MPR.⁶⁸ However, in such a condition, the logical consequence is that it is possible to add the authority of the MPR RI through legislation that is higher than the TAP MPR, namely the 1945 Constitution of the Republic of Indonesia. So, the only way is to amend and add the authority to make a TAP MPR.⁶⁹ Note that as previously mentioned, the inclusion and addition of the MPR's authority to remake the MPR TAP must be strictly limited because it avoids being authoritarian in the MPR institution it self.

⁶⁶ Ulya and others (n 50).

⁶⁷ Endang Sutrisno, *Bunga Rampai Hukum Dan Globalisasi* (Genta Press 2011).[144].

⁶⁸ Jimly Asshiddiqie, *Perihal Undang-Undang* (Rajawali Pers 2010).[163].

⁶⁹ Titik Triwulan Tutik, 'Analisis Kedudukan Dan Status Hukum Ketetapan Mpr Ri Berdasarkan Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan' (2013) 20 *Jurnal Hukum Ius Quia Iustum*. [1].

Conclusion

Based on the description of the discussion above, the author has drawn the following conclusions: *First*, Reactivating the authority and role of the MPR RI will provide a stimulus and guarantee for the implementation of democracy along with its checks and balances, presents a different formulation to restore the function of the MPR as forming the GBHN, in fact, the state's direction does not contain the vision of state development, because the state's vision is clear in the opening of the 1945 Constitution. But the material that must be in the GBHN should be about tactical strategies on how to create that vision (mission) in order to realize the sustainable national development in accordance with a democratic legal state with the welfare state concept. With the reactivation of the role of the MPR as the shaper of the GBHN, the MPR will have a role as social control, namely through the control of every development carried out by the executive. thus, the welfare of the community can be concretely controlled, and morally the accountability of the executive is more real.

Second, The TAP MPR has historically proven effective in preventing national disintegration and being responsive to the socio-cultural issues of society. So indeed, apart from giving the authority back to the MPR RI to form the GBHN, it also restores the role of the MPR RI to form provisions with very strict boundaries in order to create a peaceful country. In the end, the return of the MPR RI function with certain limitations will show MPR RI functions that have not been shown by real , namely the MPR RI as a “motorcycle and dynamist “ in the dynamics Indonesian state administration as implementation and realization on conception on Pancasila democracy.

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