

## **Broad Guidelines of State Policy as the Guidance in Implementing Sustainable Development**

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**Abstract:** The idea of coming back to the Broad Guidelines of State Policy or *GarisGarisBesarHaluanNegara* (later called as GBHN), to be a guide for state's sustainable development, is urgently needed in terms of keeping mutualism and integrity between national development and regional development, hence the development, either physical or non physical will be sustainable. Research is indeed needed, whatever the decision made. The constitution change is influenced to which extent the institution is allowed to make the changes based on the demands and to which extent the wills of the institution to make it. The decision of the constitution is not only based on the norms of changes but also determined by popular politicians who have the majority of voices as the official institution who has the power to make the changes of the constitution. The body, which has the power to make the changes, should be able to read the direction of the changes, which are asked by the people, which is ruled officially. If the People Assembly given the power to amend limited to the Constitution of 1945, in regards to the BroadGuidance of the State Policy hence should be seriously paying attention to the people will.

**Key Worlds:** Sustainable Development Planning, Welfare

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### **I. INTRODUCTION**

The goals of the Republic of Indonesia as worded in the fourth paragraph of the preamble of the Constitution of the Republic of Indonesia 1945, states that:

*“and in order to establish a state which protects all the people of the Republic of Indonesia and to improve the public welfare and to educate people, and to participate at the peace of the world that is based on freedom, eternal peace and social just, hence it is made the freedom of the Republic of Indonesia in the Constitution of the Republic of Indonesia which is created in the arrangement of the State of the Republic of Indonesia which is based on democracy, faith in the God almighty, Humanity that is fair and civilized, the Unity of Indonesia and the people which is lead under join burden/representative and to reach the social justice for all the people of the Republic of Indonesia.”*

According to Article 3 of the Constitution 1945 before he changes made “the People Assembly enacts the Constitution and the Broad Guidelines of the State Policy”, and Article 3 of the Constitution 1945 after the changes made (becomes 3 verses). It shows that there is no authority of the People Assembly to “establish the Broad Guidelines of the State Policy”, because of “the sovereignty under the hand of the people and it is conducted based on the rules of the constitution” (Article 1 of the Constitution of the Republic of Indonesia 1945).

Viewed from two People House Representative products, that is Decree and Decision, all the People Assembly products are the manifesto of the Broad Guidelines of State Policy from state goals, and one of the decrees of the Assembly is regarding the Broad Guideline of State Policy. It is substantially a general form of National Development, which consists of all directions, and strategy of national development. Thus, through this, it is expected to realize national life condition that is aimed, either in the midterm of 5 years or long term of 25 – 30 years.

The amendment of the Constitution of the Republic of Indonesia 1945 is done in one packet of continuing all process, between 1999 and 2002. One of the changes concerning the abolition of the People Assembly, that is in Article 3 with abolishing the power of the People Assembly in terms of determining the Broad Guideline of the State Policy from the stat' goals. The abolition of the People Assembly power is a logic

consequence from the amendment Article 1(2) and in relation to other articles after the alteration, among them is the People Assembly no longer chose Article 6A stating that the President and the Vice President is chosen in one package directly by people and it. Thus, it is automatically abolishing the Broad Guidelines of State Policy (nomenclature), which is meant as direction and strategy in realizing the aims of freedom and nation goals.

Every state is making an effort to increase the development and welfare of the people. The effort to that is done in many ways in one state to another. On of the effort done by the state is to invite as much as possible foreign investment into the state.<sup>1</sup>

Some parties consider that the development practices, which is not integrated, not since one, partial and unsustainable, are to the lack of national documents which is planned in the Broad Guidelines of State Policy. This phenomenon has caused an idea that should be a national development pattern that is complete, directed, integrated and sustainable. Based on such an idea above, it is important to study the GBHN and the status of GBHN after the reformation and the meaning of GBHN in guiding the direction of sustainable development.

## **II. HISTORY AND STATUS OF GBHN AFTER REFORMATION**

On 18<sup>th</sup> August 1945, the Constitution of the Republic of Indonesia 1945 is determined as the Constitution of the Republic of Indonesia after the independence day of Indonesia. The state condition was not stable; the state was forced to amend the Constitution 1945 to be the Federal Constitution of the Republic of Indonesia (December 1949), till the Federal Republic of Indonesia was abolished on 17<sup>th</sup> August 1950.

After the Federal Republic of Indonesia disappeared, hence there was the creation of the temporary Republic of Indonesia, or known as the primary Constitution of 1950, was the Constitution applied in the Republic of Indonesia since 17 August 1950 after the Federal Republic of Indonesia changed till the issuance of the Presidential Decree on 5 July 1959. On 5 July 1959, President Soekarno issued the Presidential Decree 1959, among others contained the application of the Constitution of the Republic Indonesia 1945.

The Constitution of the Federal Republic of Indonesia 1949 or the temporary Constitution 1950 was not legislating rule as written in Article 3 of the Constitution 1945 regarding the power of House of Representative in determining that “the Broad Guidelines of State Policy”. Therefore, it is not going to compare both Constitutions aforementioned. In the implementation, in 1960 temporary People Assembly of the Republic of Indonesia enacted that “the Broad Guidelines of State Policy” by the People Assembly Decree:

1. The Decree of temporary People Assembly Number I, 1960 on the Manifesto of Politic of Republic of Indonesia.
2. The Decree of temporary People Assembly Number II, 1960 on the Broad Guidelines of Complete National Development Pattern Planning of the First Stage 1961-1969.
3. The Decree of temporary People Assembly Number IV, 1960 on the Guidance on the Implementation of the Broad Guidelines of State Policy and National Directions.

According to Farhan Hamid:

*“This pattern which is then continued by the New Era Government where every 5 year the People Assembly created determined the GBHN (nomenclature). Lastly, in 1999 (first election results after the reformation) the GBHN created from 1999 to 2004, which is then every year is the correction and adds through the decree of Annual People Assembly Meeting, in the form of recommendation. During the era of President Soekarno, he made a decree to the reapplication of the Constitution of the Republic of Indonesia 1959, at least the Temporary People Assembly has decided 12 (twelve) temporary People Assembly Decree as legal products which interpret “the Broad Guidelines of State Policy”. The last Temporary People Assembly No. VII/MPRS/1965 on “GESURI”, “TAVIP”, “The Fifth Freedom is Our Weapon”, and “The Era of Confrontation” as Guidance’s in implementing Manifesto Politic of the Republic of Indonesia”.*<sup>2</sup>

In the New Regime Era, the Decree of People Assembly Decree decided in 1973, 1978, 1983, 1988, 1993, and 1998. Besides determining GBHN, the Assembly also decided on other decrees, as a translation from “the broad guidelines of state policy”. The Special meeting of the People Assembly nullified TAP MPR No.II/MPR/1998 on GBHN (made by the MPR which is in the same position of General Meeting in the past). In

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<sup>1</sup>Yulianto Ahmad, *Roles of Multilateral Investment Guarantee Agency (MIGA) in Investment Activities*, Journal of Business Law, Vol. 22, No.5 Year 2003, p.39, as quoted by Sri Handayani in “*South Sumatera Government Effort Attracting Foreign Investors in Investment Activities*, Journal of Dinamika Hukum, Faculty of Law University of Jenderal Soedirman, Purwokerto, Central Java, Volume 11 No.1, 2011.

<sup>2</sup>Ahmad Farhan Hamid, *Broad Guidelines of State Policy in the past, nowadays, and in the future*, Paper, presented in the National GBHN Seminar, ALSA Faculty of Law, University of Syiah Kuala, 2016, p. 5.

this Special, Meeting was also decided that the Decree of MPR No.X/MPR/1998 on the Fundamentals of Reformation of Development in terms of Saving and Normalizing National Life as the Goal of the Nation.

The basic questions are post-2004, whether Indonesia has GBHN (nomenclature)? It is clearly stated that it does not have. However, if the terminology is “the broad guidelines of state policy” hence there is difference perceptions. Apart from experts say that Indonesia indeed has it “the broad guidelines of state policy”. Even the most essential is the verse and article in the Constitution of the Republic of Indonesia 1945 itself. Besides, some legislation are united elements “the broad guidelines of state policy”. Some disagree with this as it is not created and made by the People Assembly representing the Indonesian people. The Assembly (since 2004) has comprised of DPR (House of Representatives) and DPD (Regional Representative Parliament Members), which are elected through the general election. The assembly before (the amendment) considered representing the Indonesian people as it includes also the representatives of local and groups (professional and cultural group and minority groups), apart from that the members of DPR elected, and ABRI (Indonesian Military in the past) which is appointed.

As publicly known, in order to determine the direction and strategy of the national development which is sustainable “the broad guidelines of state policy” President Megawati and DPR of the elect general election 1999 issued the Act Number 25, 2004 on the Planning System of National Development (SPPN) and President SBY together with DPR of the General Election 2004 created the Act Number 17, 2007 on the Planning of Long Term National Development (RPJPN).

Therefore, both the Acts and the Presidential Regulation on the RPJM is the manifesto from the broad guidelines of state policy just like GBHN. Especially the Act Number 17, 2007 is actually has provided the common vision to reach the goals of Nation as written in the Preamble of the Constitution of the Republic of Indonesia 1945. The determination ‘likeness GBHN’ with the laws apart from involving DPR and DPD, and it is also involving President as a state runner or executive.

Indonesia is a rule of law state, which is constitutionally and democratically, hence all legislations as mentioned in the Act Number 12, 2011 on the Creation of Local Laws, having similar bindings authority. Act Number 12, 2011 also states that the hierarchy of the law is the lower-level laws must not be inconsistent with the higher-level laws. The rule of law principle also states that every person running the state and all people must obey the rules, including the Act concerning ‘likeness of GBHN’. Therefore, every law, either *regeling* or *beschiking*, even the aspiration from people can be used in arranging “the broad guidelines of state policy”. What should be done is to complete and consolidate and synchronize every rule hence it is in the correct direction, and national development strategy would be sustainable.

### **III. The Importance of GBHN As a Direction Guidance of Sustainable Development**

The development is the effort to sustain the condition that can avail more alternatives that are valid for every citizen to obtain the most humanistic aspiration. Generally, their humanistic demands are said the increase of social welfare.<sup>3</sup>

The development is sure to have a goal that will be achieved in realizing the welfare of society. Generally, the development aims to realize the state to be advance, independent, and welfare, as the base for the next development to reach a just and welfare society. The development like this can also be said as sustainable development. Sustainable development is the development aiming at increasing the welfare for its society, which impossibly avoids using natural resources, but natural resource exploitation, which does not pay attention at and support the environment caused the environmental damages. This sustainable development concept than to be renowned as WCED (*World Commission on Environment and Development*) entitled “*Our Common Future*” (next day we together) which is published in 1987. It defines “Sustainable development as the development fulfilling the needs of the young generation nowadays without decreasing the needs of the next generation fulfill their own needs.” In the concept, it has two important ideas. First, need an idea, especially the essential needs of the poor in the world that must be given priority. Secondly, the idea of the limit of the use of technology and social organization towards environment power to fulfill nowadays and future needs. Therefore, the aim of economic and social development is poured into sustainable development in every country either developing or advance country.

Apart from that, in the sustainable municipality context, it must be begun with the planning of the city that is sustainable. The sustainable city will be established if the using of spatial is well managed and together being obeyed, hence it is possible for the economy and social development, environment, and institution

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<sup>3</sup>Ali Kabul Mahi, Sri Indra Trigunarso, *Regional Development Planning, Theories & Application*, Kencana Publishing, Depok, 2017, p.29.

development as well. Thirdly, the three aspects must be noticed in managing spatial arrangement. As the choice of infrastructure that is specific will have an impact on development and life in the city.<sup>4</sup>

The municipality development is one of the keys to realizing autonomous government and decentralized at the regional level. The successfulness of government in arranging and conducting the policy and programs of city development determines to which extent people's welfare can be realized sustainably, efficiently and effectively from several institutions and social activities, economy, politic, culture, and environment inside the development.<sup>5</sup>

State, as a great organization is exactly having direction and goals that want to be achieved. Ridwan, as quoted in Hasni, views that "the term of government has two meanings, that is the government function or the way of governing and as government organization or the collection of official powers (*complex van ambten*). In the organizational meeting, the government has a goal that wants to be achieved, that is not different from other organizations especially in terms of the activity want to be achieved in to get this, that is written in the forms of planning".<sup>6</sup>

There are ideas among its the people, whether the GBHN should be reactivated or not as a guide for sustainable development, hence it has the direction for the state development which is well planned, synergic, and integrated between the development in national and local levels. Concerning, the idea to reactivate the GBHN, Mahfud MD views that, it seems that the name and the legal form of the GBHN which used as the goal and to the aims of the state development in the new era regime had to give an impression of people. There is the idea to reactivate this GBHN. This idea is possible to be reactivated as long as we agree that it has the results.<sup>7</sup>

The above views show that if such ideas are for good, hence the national development should be in the right direction, hence it must be welcome, but with the clear concept, hence finally it can be implemented well.

Additionally, Farhan Hamid states that recently there are several views on the GBHN:

1. *There is no need to make the GBHN (nomenclature), as "the broad guidelines of state policy" still exist as has been mentioned, that are the existing laws, and also norms written in the Constitution of the Republic of Indonesia 1945 that must be interpreted as the laws.*

2. *It is needed that the GBHN (nomenclature) should have integrated development either with the higher or at the same levels. Regarding the amendment of the Constitution of the Republic of Indonesia, 1945 which abolished the power of the Assembly of People in determining the broad guidelines of state policy has caused the development in the nation and regional level do not have integrated and sustainable values. Therefore, for the reasons, to get the right direction, integration, and sustainability of the development it needs the broad guidelines of state policy.*<sup>8</sup>

In regard to the importance of the GBHN as a map, strategy and direction and the goal of the national development for all components of nations to achieve the national goals and aims as mandated in the preamble of the Constitution 1945, hence the GBHN should have been attractive and supportive that are stronger hence it is obeyed by all components of the state, from central to local government. Thus, the power to "the broad guidelines of state policy" should be incorporated into the Constitution of the Republic of Indonesia 1945, through limited amendment of Article 3 of the Constitution of the Republic of Indonesia 1945 by inserting the power of the Assembly House arrange and "determinethe broad guidelines of state policy".

Regarding the amendment of Constitution of the Republic of Indonesia 1945, BagirManan, as quoted in Ni'matul Huda, views that:

*Philosophically, the need to change the Constitution of the Republic of Indonesia 1945 is, first, the Constitution of the Republic of Indonesia 1945 is a repaired moment from economic and political dominant when it is made. After 54 years, there are exactly changes in the national and local levels. It is indeed not being written in the Constitution of the Republic of Indonesia 1945 as there was no need at the time. Secondly, the usual human makes the Constitution of the Republic of Indonesia 1945, which cannot be perfectly correct. The works that human do are still having defects or weaknesses"*<sup>9</sup>

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<sup>4</sup>M. Zuhri M, *Legal Aspect of Municipal Spatial Planning in Indonesia*, Kanun, Journal of Ilmu Hukum, Faculty of Law University of Syiah Kuala, Number 58 Year XIV December 2012, p.504

<sup>5</sup>Sarah Waddell, Guidance Book Series, Book 1, *Roles of DPRD in Municipal Development that Sustainable*, Adeksi, KAS, GTZ, 2006, p. xi.

<sup>6</sup>Hasni, *Spatial Planning and Land Reform Law in the UUPA-UUPR-UUPLH*, Raja Grafindo Persada Publishing, Jakarta.2008, p. 1.

<sup>7</sup>Mahfud MD, *State Goals in Our Constitution*, Pointer at National Seminar at Syiah Kuala University, 29 Marc 2016, p. 1.

<sup>8</sup>Ahmad Farhan Hamid, *Broad Guidelines of State Policy in the past, nowadays, and in the future*, Paper, presented in the National GBHN Seminar, ALSA Faculty of Law, University of Syiah Kuala, 2016., p. 5.

<sup>9</sup>Ni'matul Huda, *The Constitution 1945 and the Idea of Re-amending It*, Rajawali Pers Publishing, Jakarta, 2008, p. 183.

Therefore, one thing that should be avoided that is political short term the amendment of the Constitution of the Republic of Indonesia 1945. It is based on what has been explained by Ni'matul Huda, that is:

*"before amending the fifth Constitution of the Republic of Indonesia, it is better to prepare grand design hence it is clear the system of the government, representative and judicial systems applied in Indonesia. This work is better to be done by the Constitutional Commission that is independent, hence it is not being contaminated short term political interest".*

Thus, it can be seen that the long period interest and the interest of people that should be done in amending the fifth Constitution of the Republic of Indonesia 1945, including it want to reactivate the GBHN as sustainable national development instrument planning.

Concerning sustainable development, Efendi et al., explains that:

*"The nature of the development in Indonesia is the development of whole part of the nation, it means that the development mentioned covers: physical development (food, clothing, housing, etc.), while non-physical development is comprising of: education, security, justice, and health. The improvement area comprises of all for people as it is referring to social justice."<sup>10</sup>*

Thus, sustainable development covers comprehensive development to reach national development goals that are welfare. Concerning this, the GBHN, according to Solly Lubis, the legal development that has a cultural dimension. Penyang views that in the GBHN enacted by the MPR in 1973, 1978, 1983, 1988 and 1993, this cultural tradition is not like as the GBHN as it talks about social culture, but the relationship is specific to law, is started to the GBHN made by the MPR in 1988<sup>11</sup>.

Moreover, Solly Lubis states that *between 1993 and 1998 the struggle is continued and at last in the GBHN in 1998 dimension of "culture" aimed to the MPR as the subsystem from legal development, with the details as follows:*

a. *Legal culture development and improvement is directed to create behavioral and people behaviors including the state runner based on values and norms of Pancasila hence the values are more respected in the society, hence awareness, obedience, and law obedience increase and human rights are more respected and obeyed.*

b. *Awareness to increase respect and respect human rights as an implementation of Pancasila and the Constitution 1945 is directed to enlighten people and human dignity to improve public welfare and educate citizens.*

c. *Legal culture development and improvement are directed to the existence of welfare and law enforcement based on honesty, truth, and justice to avail legal certainty in bringing up national law obedience.*

d. *Law awareness of state runner and people should increase and improved continuously through the education, campaign, and law enforcement to respect, obey the laws in realizing the state which obeys the laws.gh.<sup>12</sup>*

The comments from the above experts show how important the legal culture is about law development, to realize law enforcement in realizing discipline in the nation. Besides how important to respect human rights is in terms of to advance public welfare and educate people.

#### IV. CONCLUSION

The principle of rule of the law state that every state runner and all citizens must obey the existing rules, including laws concerning 'likeness of GBHN'. Therefore, all laws, either *regelings* or *beschikings*, or people aspirations can be as sources for the arrangement "the broad guidelines of state policy". In order to realize the goals the thing must be done is to complete, synchronize and consolidate several rules hence it can be a direction and strategy of sustainable national development. The development would cover comprehensive development to achieve national development goals that are to bring welfare up for all people..

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<sup>10</sup>Efendi, Yanis Rinaldi, *Law of Natural Resources Management*, Faculty of Law, University of Syiah Kuala Pers Publishing, 2016.,p. 20.

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