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Establishment of the broad outlines of state policy as a development

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Abstract

This research tries to find the legal basis for MPR (People's Consultative Assembly) and the President granting authority in determining the GBHN (Broad Outlines of State Policy) via analytical descriptive research. As a result, the development program must be carried out on an ongoing basis, in which the program is contained in the GBHN. In conclusion, as a legal basis for drafting and determining the GBHN, it can refer to Article 8 paragraph (1) and (2) of the Act. No. 12 of 2012.

Keywords: People, Sovereignty, Democracy, Rule, Development.

Establecimiento de las líneas generales de la política estatal como desarrollo

Resumen

Esta investigación trata de encontrar la base legal para MPR (Asamblea Consultiva del Pueblo) y el Presidente otorgando autoridad para determinar el GBHN (Contornos generales de la política estatal) a través de la investigación analítica descriptiva. Como resultado, el programa de desarrollo debe llevarse a cabo de manera continua, en el que el programa está contenido en el GBHN. En conclusión, como

base legal para redactar y determinar el GBHN, puede referirse al Artículo 8, párrafos (1) y (2) de la Ley. No 12 de 2012.

Palabras clave: pueblo, soberanía, democracia, gobierno, desarrollo.

1. INTRODUCTION

Speaking of GBHN, attention cannot be separated from the implementation of the 1945 Constitution before changes are made. Because the GBHN is known and enforced before changes are made to the 1945 Constitution. This is evident from what is said in Article 3 of the 1945 Constitution (original) which states that: The People's Consultative Assembly sets out the Basic Law and the outlines of the country's direction. Furthermore, in Article 1 paragraph (2) of the 1945 Constitution, it is stated that: Sovereignty is in the hands of the people and is carried out entirely by the People's Consultative Assembly.

More explicitly then it is mentioned in the general explanation of the 1945 Constitution (original) that the sovereignty of the people is held by a body, called the People's Consultative Assembly, as the incarnation of the entire Indonesian people. Based on the above provisions it appears that the MPR is the bearer of people's sovereignty. As the bearer of people's sovereignty, the MPR has the authority to determine and implement the GBHN. The GBHN was used as a foundation in running the government and development at that time. To run the GBHN, the MPR appoints the Head of State

(President) and Deputy Head of State (Vice President). The President who is appointed by the Assembly is subject to and is responsible for the Assembly. He is the mandate of the Assembly. He is authorized to carry out the decisions of the Assembly. The president is not Neben, but untergeordnet to the Assembly. According to the author, the system of government at that time was a system of mandate government. So-called, because the president runs the government according to what is determined by the MPR.

Historically, GBHN has actually begun to be practiced since the Old Order era, namely when the 1960 MPRS Session decided on President Soekarno's Speech entitled Rediscovery of Our Revolution which became known as the Political Manifesto abbreviated Manipol accepted as GBHN. Therefore, as stated by SAIFUDIN (2015) that the state direction or state policies itself can be formulated in three terms, namely (i) the state direction stipulated in the Basic Law, namely the entire contents of the 1945 Constitution which is the direction state in the first sense; (ii) state direction not specified in the Constitution. Because the text of the 1945 Constitution is very concise, it requires more country direction to complete what is determined by the MPRS (Provisional People's Consultative Assembly) outside the text of the Constitution (SHABBIR, ABBAS, AMAN, & ALI, 2019).

If you read the 1945 Constitution, it turns out that the GBHN is not explained in detail. Therefore, in understanding what the GBHN can be seen in the MPR Decree No. II/MPR/1983 which said, that: The Outlines of the State Policy are a State Policy in outlines as a statement of the will of the people which in essence is a General Pattern of

National Development established by the People's Consultative Assembly. The general pattern of National Development is a series of comprehensive, directed and integrated development programs that take place continuously. The series of continuous development programs are intended to realize the National Goals as included in the Preamble of the 1945 Constitution, which is to protect the entire Indonesian nation and the entire Indonesian Blood Spilled Land and to promote the general welfare, educate the life of the nation and participate in the world order. based on eternal peace, independence, and social justice.

The purpose of the outline of the State Policy is to provide direction for the struggle of the state and the people of Indonesia, which at the present level is carrying out national development with a goal, so that the desired conditions can be realized within the next five years and in the long run, so that gradually the aspirations of the Indonesian people can be realized, as stipulated in the 1945 Constitution. Outlines of the State Policy are formulated based on the ideological foundation of Pancasila and the constitutional 1945 Constitution. The State Policy Outlines that have been established by the People's Consultative Assembly are carried out by the President or Mandate of the People's Consultative Assembly, whose implementation is set forth in the form of legislation and/or in the lines of government policy.

Every five years the Outlines of the State Policy are reviewed to suit the development of the life of the Indonesian people and nation. The program for implementing policies and development efforts for

each year is outlined in the operational plan in the form of the State Budget. Through the above understanding, it can be understood what is the GBHN and what is the reason why the GBHN is set. The problem is that after the amendments to the 1945 Constitution, there was a fundamental change in the Indonesian state system, where the MPR was no longer the monopoly of the people's sovereignty. Changes also occur in the composition of the MPR, where according to Article 2 paragraph (1) of the 1945 Constitution (original), that: "The People's Consultative Assembly consists of members of the People's Legislative Assembly, plus delegations from regions and groups, according to the rules stipulated by law" (NEUMANN, 1963: 17). transformed into: "The People's Consultative Assembly consists of members of the People's Legislative Assembly and Members of the Regional Representative Council who are elected through general elections and further regulated by law" (Nazriyah, 2017: 18).

2. METHODOLOGY

This research is a normative legal research. In accordance with the purpose of this study, the nature of the research is analytical descriptive research, namely by trying to provide an overview or description of the problems in this study. Furthermore, the research method used is adapted to the formulation of the problem that is the focus of this research, namely what are the reasons and foundation involving the development of popular sovereignty in preparing the

direction of development in the form of GBHN and how the legal form of GBHN is determined. This research is normative. As a consequence of the normative legal research, this study uses normative and philosophical juridical methods. The Legal material used by primary, tertiary and secondary legal materials.

3. RESULTS AND DISCUSSIONS

As is known, that almost every day people speak democracy. In every discussion, debate, and discussion is always associated with democracy. Especially regarding politics, it must be associated with democracy. That means that everyone and the country accepts and wants the need for democracy to be upheld and carried out in the administration of government in their country. In fact, if a country fails to embody the substance of democracy in its political practice, the country still tries to take the form of democracy for its government (TUTIK, 2013 & NIKKU, & RAFIQUE, 2019).

Listening to democracy as an idea in the state becomes questionable about the existence of a country that has claimed itself as a democratic country, whether the country really has run a democracy in its government or not. As a benchmark whether a country has carried out the principles of democracy in its government, it can be seen from the characteristics of democracy.

A free justice system to guarantee human rights and maintain justice. BUDIARDJO'S (2004) opinion, as stated above, is an

embodiment of democratic values in the life of the state. It also shows how important (the essence) of democracy is to human life in state life. In this case, the incarnation of the idea of democracy in a state of life will be able to provide welfare for human life. That is why almost all countries in the world today claim to be a democracy. Therefore, to answer whether a country that claims to be a democracy or not can be seen from the way the country carries out its government, namely: whether the country has followed democratic characteristics as described above.

In the meantime, AMANWINATA (1996) said that understanding democracy is a universal understanding, but in implementing it, it is possible to adapt to elements of local value in a particular political environment. In this case, it should be noted about how far the interaction between universal values of democracy and local values supports each other. Based on GAFFAR's (2002) opinion, in talking about democracy in Indonesia, besides having to pay attention to universal democratic values, it must also pay attention to the values of life that live and thrive in Indonesia. The implementation of democratic values in Indonesia cannot be separated from the values of Pancasila. Therefore, in its development, there are various predicates given to democracy.

MANAN (1995) cited the opinion of Robert K. Carr, saying that democracy in its development has various predicates such as social democracy, liberal democracy, people democracy, guided democracy and so on. The same thing was said by BUDIARDJO (2004), that there are various terms used for democracy, namely those that are called

constitutional democracies (ROMADLON, 2016 & USAK, KUBIATKO, SHABBIR, DUDNIK, JERMSITTIPARSERT, RAJABION, 2019). parliamentary democracy, guided democracy, Pancasila democracy, people's democracy, Soviet democracy, democracy national, and so on. Democracy which was used in Indonesia was apparently connected with Pancasila so that the term emerged and was given the name Pancasila Democracy. The use of the term Democracy Pancasila is the same as the existence of Pancasila in the state of life in Indonesia (Ramage, 1995 & Mahmood, Arshad, Ahmed, Akhtar, & Khan, 2018). With the addition of the word Pancasila to democracy, the term Pancasila democracy emerged.

In Article 1 number 1 of the Act. No. 2 of 2011 concerning Amendments to the Act. No. 2 of 2008 concerning Political Parties is said, that:

Political parties are organizations that are national in nature and are formed by a group of Indonesian citizens voluntarily on the basis of their common desire and aspiration to fight for and defend the political interests of members, communities, nations and countries and maintain the integrity of the Unitary Republic of Indonesia based on Pancasila and the Republic of Indonesia Constitution Indonesia in 1945 (SOEKANTO & MAMUDJI, 2007: 18).

Based on the above definition, it appears that political parties are an activity of a group of people organized within the state which aims to gain (seize) the power of government within the state. Thus, the political party has a very central and important position in a democracy. On this basis, ASSIDDIQIE (2007) mentions that political

parties are pillars of democracy because they play an important and strategic role in connecting the government with its citizens. It can be said that political parties form a democracy. Assidiqie further said that political parties as pillars or pillars of democracy are very necessary and important to be strengthened by the degree of institutionalization in every democratic political system. The degree of institutionalization of political parties greatly determines the quality of the democratization of a country's political life. Because, the existence of political parties is closely related to the principles of freedom of opinion, organization, and assembly.

In connection with the above opinion, STRONG (1973) seems to give an understanding that political participation can be channeled through the representative body as a control (supervision) institution to the government. The distribution of political participation through representative bodies is a manifestation of the idea of democracy in a modern state. According to NAPITUPULU (2007) that a representative is a person or group of people who are authorized to express an attitude or carry out an action intended for or on behalf of another party. If linked to the representatives of the people, the other party can be compared to the people. BUDIARDJO (2007) said that in implementing democratic values, it is necessary to form a People's Legislative Assembly that represents groups and interests in the community and who are elected with free and confidential elections. Based on Miriam BUDIARDJO's (2004) opinion, what is meant by the people's representative body is the House of Representatives.

In Indonesia, according to the 1945 Constitution, for the central level, this people's representative body consists of the People's Consultative Assembly, the House of Representatives, and the Regional Representative Council. In addition, based on Article 18 paragraph (3) of the 1945 Constitution, the provincial, district and municipal governments have Regional Representative Council members whose members are elected through general elections. Thus, a representative body of people in Indonesia, some at the central level and some at the regional level. The representative body of the people, both the central and regional people's representative bodies representing the interests of groups and individuals.

Associated with the MPR, DPR (House of Representatives), and DPD (Regional Representative Council), they are the body that holds the people's sovereignty in Indonesia. They are referred to as the governing body of people's sovereignty because they are directly elected by the people. In addition, the President and Vice President also included the bearers of popular sovereignty because they were also directly elected by the people. Therefore, the bearer of popular sovereignty according to the 1945 Constitution is the MPR, DPR, DPD, and the President or Vice President.

In connection with the idea of establishing a GBHN that will be used as a direction and foundation in carrying out development, the author proposes that this authority is given to the MPR and the President. This proposal is based on the idea that the MPR is a representation of the DPR and DPD that are directly elected by the people, while the President is a government executive who is also

elected by the people. The GBHN which is compiled and stipulated by the MPR and the President will be made the President as a basis for preparing the APBN. As a supervisor whether the APBN deviates from the 1945 Constitution and the GBHN is the DPR. Because the APBN must be approved by the DPR. This idea is in line with the idea of democracy as outlined above.

It is true that according to Article 4 paragraph (1) of the 1945 Constitution, the President is the head of the government that holds the power of government according to the 1945 Constitution. However, as stated earlier that the Constitution only contains the main provisions. Not all problems can be set forth in the 1945 Constitution. Special documents are needed to be regulated separately to complement the 1945 Constitution. For example, in the implementation of Article 33 paragraphs (2) and (3) of the 1945 Constitution the involvement of the MPR which is a representation of the people's sovereignty, in formulating it very needed. Later the President also did not act arbitrarily in carrying out the development. Because the policy line has been determined in the GBHN. Moreover, involving foreign investors in its management, it needs to be specifically regulated in the GBHN. Indonesia has been very troubled by the problem of PT. Freeport Indonesia. Hopefully, things like that never happen again the next day. Likewise, in the implementation of strategic development and concerning the lives of many people, the participation of other people's sovereignty is very necessary. In the meantime, the President is not to be blamed in the future if there is a development policy that may be less relevant in the hearts of certain parties in the community.

SIMAMORA (2007) said that: In terms of planning a country, especially Indonesia, the planning system that is built must be able to reach whatever is needed by the country and its citizens by making changes to existing planning periodically. Thus, the steps to achieve the goals of the country on an ongoing basis will be realized. Although the demands of a country's needs are not the same from time to time, it must be understood as a form of updating steps from the main objectives to be achieved. This means that there is already an initial agreement that is a general goal to be achieved which will then be valid for a long period of time, even valid forever. Even if there are more detailed descriptions that always require updating steps, it should not deviate from the main objectives outlined previously.

SIMAMORA's (2007) opinion as mentioned above is true, where the development program must be carried out continuously. Although the demands of a country's needs are not the same from time to time, it must be understood as a form of updating steps from the main objectives to be achieved. Therefore, the development program must be carried out on an ongoing basis, in which the program is contained in the GBHN.

4. CONCLUSION

Through the discussion above, it appears that initiating the GBHN as a guiding principle for the implementation of sustainable development is very important. In drafting and determining the GBHN

requires the involvement of other people sovereignty, namely: the MPR (DPR, DPD), and the President. This is necessary so that the president does not act arbitrarily in determining the lines of his policies, especially those concerning strategic development as well as involving the public of many people as mandated by Article 33 of the 1945 Constitution. Therefore, the MPR and the President as bearers of popular sovereignty are very appropriate for compiling and set the GBHN.

As is known that with the amendment to the 1945 Constitution, the form of the MPR decree named GBHN was unknown. Therefore, as a legal basis for drafting and determining the GBHN, it can refer to Article 8 paragraph (1) and (2) of the Act. No. 12 of 2012. On this basis, it is not necessary to make amendments to the 1945 Constitution to provide a constitutional basis for the MPR and the President in formulating and establishing GBHN.

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