THE PRINCIPLES OF STATE GUIDELINES AS THE LEGAL BASIS AND LEGAL POLITICS FOR SUSTAINABLE DEVELOPMENT IN FACING THE INDUSTRIAL REVOLUTION 5.0.

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Abstract

This article discusses the principles of state guidelines as the legal basis and legal politics to implement sustainable development in facing the industrial revolution 5.0. This discussion is needed because of the perceived weaknesses in the national Medium-Term Development Plan (RPJM). Additionally, the amendment of Article 1 paragraph (2) of the 1945 Indonesia Constitution (UUD NRI 1945) is also considered to reduce community control mechanism effectiveness in RPJPN and/or RPJMN implementation. Therefore, a legal instrument in the form of principles of state guidelines as the legal basis and legal politics for the implementation of national development is needed. The principle could be implemented by preparing State Guidelines (GBHN) or the supervisory system indicators to assess the commitment of the government or executive board to implement the national development plan.

This study employs a normative juridical approach, specifically on descriptive analysis using a qualitative approach. Normative juridical research is a legal study that places the law as a structure of norms system regarding the principles, norms, rules of legislation, agreements, and doctrines (teachings). This study was conducted on secondary data such as laws and regulations, scientific journals, and legal books on cooperation agreement law and agency.

Descriptive analysis is a method to describe or illustrate the studied object through collected data or samples without drawing any generalized conclusion. In other words, a descriptive analysis study takes an issue or focuses its attention on the current issues during the study period to which the collected data were analyzed and concluded.

Keywords: *Principles of State Guidelines, Legal Politics, Sustainable Development, Industrial Revolution 5.0*

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I. INTRODUCTION

The amendment of the 1945 Indonesia Constitution (UUD 1945) brought an agreement that the People Consultative Assembly (*Majelis Permusyawaratan Rakyat* - MPR) no longer has the authority to determine the "Principles of state guidelines" (GBHN). After the general election (Pemilu) 1999, Indonesia applied the "National Development Program" (Propenas) model that refers to Law Number 25 of 2000. Since the implementation of direct presidential and vice-presidential elections in the general election in 2004, the term state guideline for national development was replaced with the National Development Plan according to Law Number 25 of 2004 regarding the National Development Planning System (UU SPPN).

After UU No. 25 of 2004 was implemented for a few years, problems started to arise, indicating several elemental fundamental weaknesses. First, the development guidelines based on the National Development Plan tend to be biased toward the executive agenda or program and less accommodating of the agenda or programs from other government branches. Secondly, developmental guidelines based on the national development plan tend to be biased toward the state apparatus agenda and less accommodating

of the agenda, program, and participation from the community and business community. Thirdly, developmental guidelines based on the national development plan tend to be biased toward economic development and pay less attention to the development of other fields holistically. Fourth, the President's involvement in legalizing the laws often makes the national development plan implementation to be biased toward the President's agenda and campaign programs and leaves many areas with a lack of attention.

The fundamental issues in the UU No. 17 of 2007 concerning the National Long-Term Development Plan 2005-2025 prepared according to the UU SPPN lies in Article 4 paragraph (2). This regulation mentions that: "National RPJP as mentioned in Article (1) becomes the guidelines in preparing National RPJM that contains the President's Vision, Missions, and Programs." UU Number 17 of 2007 also does not include any provision on the sanction when RPJPN was not followed by RPJPMN and RPJPMD that outlines the President's or Local Government's Vision and Missions. Therefore, the clauses in UU No.17 of 2007 make room for inconsistencies in presidential or local government campaigns within the development planning. As a result, there is a possibility of bias in the formulated five-year RPJPN and RPJMN that could be solved through the Government Work Plan (*Rencana Kerja Pemerintah* - RKP) as an annual plan stipulated in the Presidential Decree (Perpres). Although, UU No.17 of 2007 also does not regulate any sanction when the prepared RKP does not follow the existing RPJPN.

Article 5 paragraph (2) UU No. 17 of 2007 mentions that "RKP, as mentioned in Article (1), is used as a guideline in preparing the State Revenue and Expenditure Budget (APBN) for the first year of the next President in office. This arrangement also opens the possibility of issues between APBN prepared by the Ministry of Finance and RKP prepared by Bappenas, even though there is always coordination between Bappenas, the Ministry of Finance, and Ministries/Institutes in a Trilateral Meeting during implementation.

Potential issues also exist when there are shocks in the national economy because of a crisis, for example, fuel crisis, Covid-19 pandemic, and other crises, which demand APBN (APBN-P) adjustment through discussion and approval from the People Representatives (DPR).

The bias between RKP, RPJMN, and RPJPN also occurs with the five-year governmental changes. For example, when the parties supporting the elected President have different ideologies, there is a high probability that there will be fundamental differences in the President's visions and mission offered during the campaign. In other words, the continuity of development policies and programs could change every five years following the political period. This condition is where the politic surrounding the general election will strongly determine the direction of national development. The changes could occur in the policies and programs compared to those regulated in RPJPN.

The technocratic development planning also regulates the Development Planning Board (*Musyawarah Perencanaan Pembangunan* - Musrenbang) at the national (Musrenbangnas) and local government (Musrenbangda). The Musrenbang forum aims to accommodate aspirations at the central and local government levels and accommodate the community's aspirations.

With the other existing weaknesses and issues, public discourse started to suggest bringing back the principles of state guidelines or the past GBHN prepared by MPR. Indonesian Institute for Sciences (*Lembaga Ilmu Pengetahuan Indonesia* - LIPI) has also recommended the revitalization of GBHN or "other model of state guidelines" since 2013. The Forum of Indonesian Rectors (*Forum Rektor Indonesia* - FRI) also has intensively recommended bringing back GBHN since 2016. In the "Social Basis of GBHN" (*Kompas,* 12 February 2016), Yudi Latif emphasized the urgency and basis of "state guidelines" for national development. In response to the growing public aspirations, MPR has started conducting various studies and included the state guidelines restoration agenda in their meetings.

In the New Order era, Bappenas had a role as the lead institution to plan the Five Years Development Plan (Rencana Pembangunan Lima Tahun - Repelita) that is prepared to be consistent with the GBHN issued by MPR as the highest governing institution through TAP MPR. Before Repelita VI could be fully implemented, Indonesia was struck by the economic and financial crisis in 1997 that continued to the

political crisis in 1998 and President Suharto's resignation before completing his office. Crisis 1998 became the beginning of the reformation era and Indonesia's participation in IMF by signing the Letter of Intent that initiated the extensive reformation program (big bang reform) in all lines and mainly in the economic, financial, and banking sectors. The reformation era was also marked by the amendment of UUD 1945 four times, with the last amendment in 2002. In local government, reformation also becomes the starting point of large-scale decentralization (local autonomy). MPR experienced a major shift in its status from the highest governing institution to becoming a part of a bicameral parliament, and GBHN was no longer prepared. To maintain the continuity of development planning, UU No. 25 of 2000 concerning Propenas 2000-2004.

With the extensive reform in the reformation era, many fundamental changes were made in the field of State Finance through the enactment of Law Number 17 of 2003 concerning State Finance, Law Number1 of 2004 concerning State Treasury, and Law No.15 of 2004 concerning Examination of State Financial Management and Responsibility. The role of development planning is weakened while the state financial management is strengthened in Law Number 17 of 2003 concerning State Finance. Law No.25 of 2004 regarding the National Development Planning System (SPPN) was enacted in 2004 to regulate short-term, medium-term, and long-term planning and solve the power imbalance in the national development and state financial management.

Two planning aspects need to be prepared in RPJMN explaining the five-year planning. Initially, Bappenas prepared a technocratic design of RPJMN based on the Bappenas' background study results held for at least one year. The technocratic design is also prepared through a public consultation process to capture people's aspirations that involve the penta helix process. The technocratic RPJMN draft is then adjusted to the elected President's vision and missions or the promises made during the campaign. Therefore, the final RPJMN is political and enacted using Perpres at the beginning of the elected President's term.

Despite the practical function of state guidelines, there is obscurity in the definition of state guidelines. People tend to define the document personally without making an effort to learn about its original intent or the definition provided by the founding fathers. State guidelines should also be distinguished from the constitution and laws because laws are prepared by the House of Representatives (DPR) and the President instead of MPR.

II. THEORETICAL REVIEW

National and local development as the implementation of Article 33 paragraph (1) UUD 1945 emphasized that:

"The economy shall be structured as a joint enterprise by virtue of the principles of kinship (*asas kekeluargaan*)."

The definition of this paragraph is profound that the developed economic system should not be based on competition and a very individualistic principle. Followed by paragraph (4) by paying attention to some principles:

"…..justice, sustainability, environment insight, autonomy, as well as by safeguarding the balance of progress and national economic unity."

An international law expert, Mochtar Kusumaatmadja, introduced the Development Law Model when delivering material as a speaker in a National Law Seminar in 1973. When Mochtar Kusumaatmadja served as the Minister of Justice, the legal model he mentioned as the Development Law Model was included as the framework of legal development.[1] The Development Law Model was set as Legal Policies in National Development (GBHN Chapter 27 of 1973).

If reviewed from the historical perspective and its elaboration, the Development Law theory is not introduced by its initiator as a theory but, instead, as a concept of legal construction modified and adapted from Roscoe Pound's theory; "Law as a tool of social engineering," developed in the United States. Further, the Development Law Theory from Mochtar

[1]Romli Atmasasmita, Tiga Paradigma Hukum Dalam Pembangunan Nasional, Jurnal Hukum Prioris, Vol. 3 No. 1, 2012, https://media.neliti.com/media/publications/96217-ID-tiga-paradigma-hukum-dalam-pembangunan-n.pdf, accessed on 19 September 2021

Kusumaatmadja is affected by Herold D. Laswell and Myres S. Mc Dougal's views on Policy Approach and Roscoe Pound's legal theory, excluding its mechanical conception.[2] Mochtar Kusumaatmadja considered all these inputs and adjusted them to Indonesia's condition.[3] There is an exciting side to Laswell and McDougal's theory because it explains the importance of collaboration between theoretical law experts, general scholars, and specialists in creating a public policy that is politically effective while enlightening the community.

Mochtar Kusumaatmadja demonstrated collaboration partners that involve all stakeholders in a social community. In the process, Mochtar Kusumaatmadja also added a pragmatic objective (for development) as suggested by Roscoe Pound and Eugen Ehrlich. This addition could be observed from the correlation between Laswell and McDougal's statement that collaboration between law scholars and specialists could bring forward an ideal law theory, a theory with a pragmatist dimension and practical use.

To understand the connection and interaction between law and development, Mochtar emphasized two matters: first, legal issues as a means of change (development), and secondly, the construction or development of law itself. Thus, the role of law in the development is to ensure that the changes occur in an orderly manner through legislation and court ruling, or a combination of the two.[4] Forming legislation is the most rational and quickest way to achieve this objective compared to developing other legal products such as jurisprudence and customary law.[5] In this case, Mochtar set legislation as a concrete form and the primary means of achieving social engineering. Mochtar Kusumaatmadja argued that the definition of law as means is more extensive than law as a tool because:

1. In Indonesia, legislation has a more substantial role in the legal update; for example, compared to the United States, which places jurisprudence (especially the Supreme Court's decisions) at a more critical level.

2. The legal concept as a "tool" will bring similar results from the implementation of "legism" as implemented in the Dutch East Indies era, and in Indonesia, there is an attitude that reflects the community's sensitivity to rejecting the application of such a concept.

3. If "law" here includes international law, the concept of law as a means to community changes has been implemented long before the concept was accepted formally as the national legal policy foundation.[6]

In more detail, Mochtar Kusumaatmadja stated that: Law is a tool to maintain community order. Based on its function, the law is fundamentally conservative, meaning that the law maintains and upholds what has been achieved. This function is needed in every society, including developing ones, because there are results that need to be maintained, protected, and secured. However, it is not sufficient for a community undergoing development or rapidly changing if the law only embodies such function. Law should also assist the process of societal changes. The old-fashioned view on laws that emphasized the statics function of law to maintain order and the conservative character of law considers that law could not play a meaningful role in the development process.[7]

The essence of Mochtar's legal view lies in the law's position and role in the development process. In this discussion, Mochtar stated in one of his writings that: Development in its most extensive definition covers all aspects of community life and is not limited to the economic aspect of it. Therefore, economic development is not quite right because we cannot build the economy of a society without connecting it to the development of other aspects of community life."[8] The question, according to Mochtar, is, "Is there the role of law in this development; and if any, what is the role.[9] To which Mochtar

[2]Shidarta, Karakteristik Penalaran Hukum Dalam Konteks Ke-Indonesiaan, CV Utomo Publisher, Jakarta, 2006, page 411.

[3]*Ibid*.

[4]*Ibid*., page 3-4

[5]Mochtar Kusumaatmadja, Pengembangan Filsafat Hukum Nasional, Pro Jusa, XV, No.1, 1997, 3-11.

[6]*Ibid*., page 415.

[7]Mochtar Kusumaatmadja, Konsep-Konsep Hukum Dalam Pembangunan (Kumpulan Karya Tulis), Alumni Publisher, Bandung, 2002, page 14.

[8]Mochtar Kusumaatmadja, Pembinaan Hukum Dalam Rangka Pembangunan Nasional, Bandung: Bina Cipta, 1975, page 3

[9] *Ibid.*

answered that "If we study (it), then all people who are building marked by any changes no matter how we define that development and no matter measurement that we use for 'community in development,' the role of law in the development is to ensure that the changes occur in an orderly manner."[10]

On the role of law in the development, Mochtar underlies that law must ensure that the changes occur in an orderly manner. His emphasis on "in an orderly manner" reflects that achieving "orderliness" is one of the classical functions of law. Then the urgency was reiterated again by Mochtar in supervising the development; changes as the essence of development and orderliness as a vital function of law are the twin objectives of a developing community.[11] With this role of law, Mochtar wants to build legislation that provides orientation and correction to the implementation of the development process, not legislation that only provides legitimacy for those in power. Here, Mochtar provided a clear formula that the power must obey the law.[12]

The essence of development, according to Mochtar, is the changes. Thus, because the essence of development is the changes when the law takes a role in this process, it cannot be defined as a static element that always follows the change itself. Law needs to move in the front line to protect the changes. Therefore, the law is not the follower but instead must become the prime mover of the development. Mochtar also explicitly employed the legal term as a tool to renew the society by saying: "(I think) it is clear that the use of law in this matter as a tool to renew the society requires us to have a deeper and more extensive legal knowledge than its usual sense."[13] What Mochtar means by "a more extensive knowledge of the law" is none other than the dynamic role of law as a means of societal changes, instead of the law defined as a static element that continuously falls victim to the changes itself. The legislation updates through the preparation of new laws or harmonizing laws according to the recent development in the international laws in economics, finance, trades, and banking, is not sufficient to fulfill the dream of justice and legal certainty echoed during law education. On the other hand, legal update through jurisprudence has not been fully institutionalized among legal apparatus, including legal advisors, even though academically, it has been recognized in the various discussion forum. [14]

Mochtar Kusumaatmadja's view on the function and roles of law in the national development process is then known as the Development Law model formulated based on the following premises and principles:[15]

(1) All community undergoing development is always marked by changes, and law acts to ensure that all the changes occur in an orderly manner. According to Mochtar, a just change could be assisted by legislation, court decisions, or a combination of both. He refused unjust changes imposed using violence.

(2) Changes and orderliness are the initial objectives of a community undergoing development. Thus, the law becomes an irreplaceable mean (not a tool) in the development process.

(3) The function of law in the community is to maintain orderliness through legal certainty, and law (as a social rule) must be able to regulate (assist) in the social change process.

(4) A good law is a law that aligns with the living law in the community, and that also aligns with or reflects the community's values.

(5) The implementation of legal function is only attainable if the people in power implement the law. However, people in power must also operate within the limits of the law."

The five core values of Development Law reflect that legal certainty should not contradict justice, and justice should not be imposed according to the will of those in power, but instead should follow the good values that develop in the community. The Development Law Model (National), according to Mochtar

[10] *Ibid.*

[11] *Ibid.*

[12] Lili Rasjidi, Fase Kedua Perjalanan Teori Hukum Pembangunan, Hukum dan Perkembangan Sosial, Book I, Jakarta: Pustaka Sinar Harapan, 1988. page 123-124.

[13] Mochtar Kusumaatmadja, Pembinaan Hukum Dalam Rangka Pembangunan Nasional, Bandung: Bina Cipta, 1976, page 4.

[14] *Ibid.*

[15] *Ibid.*, page 6-8

Kusumaatmadja, does not entirely leave behind the analytical jurisprudence stream and even has accommodated the "analytical jurisprudence," sociological jurisprudence,"[16] and "pragmatic legal realism." Departing from these three legal theories, the Development Law model could only be implemented by issuing legislation, court decisions, or a combination of both.[17]

2.1 The Principles of State Guidelines as The Legal Basis and Legal Politics for Sustainable Development in Facing the Industrial Revolution 5.0.

The founding fathers of Indonesia considered that Indonesia's efforts in achieving its national objectives, as mentioned in the preamble of UUD 1945, must rely on three fundamental consensuses: Pancasila as the basic philosophy/norm, constitution as the legal fundamental, and State Guidelines as the fundamental policy.

If Pancasila contains the philosophical principles, UUD 1945 contains the normative principles; then the State Guidelines contain the directive principles. The philosophical values in Pancasila are abstract, while the Articles in UUD 1945 also mostly contain general norms without directives for its institutionalization and implementations. Therefore, a guiding principle that contains the primary directive on how Pancasila and UUD 1945 values could be institutionalized into various public institutions is needed to assist state administrators in formulating and implementing a consistent, planned, and integrated development policy. As a directive principle, the state guideline also needs to be adopted as a guideline in the lawmaking process.

Several countries explain their directive principles in their constitution, such as India and the Philippines, inspired by articles in the directive principles of social policies contained in Ireland's Constitution (1937). The Ireland constitution existed before the Indonesian founding fathers formulated the draft of UUD 1945. Thus, we could be sure that people of Soepomo and Muhammad Yamin caliber, with their extensive intellectual and deep interest in constitutional matters, have been aware of it. Thus, there must be a reason as to why UUD 1945 was designed to exclude the directive principles in its articles.

The first reason is the limited time. Therefore, just recently (after Presidential Decree 5 July 1959), there was an effort to include an explanatory script for UUD 1945 based on the formulation prepared by four small teams in the BPUPKI meeting that, up to a certain level, contains directive principles. The second reason is that GBHN has a more extensive and elaborative coverage than the directive principles that can be accommodated in the constitution. The third reason is that GBHN must be more dynamic in responding to the current development than the constitution. In his explanation at BPUPK Grand Meeting (15 July 1945), Soepomo stated that "Taking into consideration the dynamics in the community, once every five years People's Consultative Assembly, by considering what happened and the current streams, determine the guidelines to be implemented in the future."

According to Prof. Maria Farida Indrati S, in *Ilmu Per-Undang-Undangan* (Kanisius, 2007), MPR before UUD 1945 amendment has two functions: "Function I: legalized the constitution; Function II a: Determine the principles of state guidelines; II b: Elected president and vice-president." It is further explained that: "In implementing its first function, People's Consultative Assembly has a higher responsibility than its second function. Therefore, in implementing their first function, the People's Consultative Assembly has constituent's quality, to determine the constitution once it is needed and not regularly. In contrast, the second task could be implemented regularly once in five years during People's Consultative Assembly meeting."

III. RESEARCH METHOD

This study employed the Normative Judicial approach with a specification of Analytical Descriptive using Qualitative Analysis.

Normative Judicial research is a legal study that places law as a structure of norms system

[16]Roger Cotterrel, The Politic of Jurisprudence, Oxford University Press; second ed, 2003

[17]Mochtar Kusumaatmadja, Hukum, Masyarakat, dan Pembinaan Hukum Nasional, Bandung: Bina Cipta, Lembaga Penelitian Hukum dan Kriminologi Fakultas Hukum Universitas Padjadjaran, no year.

consisting of principles, norms, rules of legislation, agreements, and doctrines (teachings). This study was carried on on secondary data, such as legislation, scientific journals, and legal books related to the law of cooperation and agency agreements.[18]

Analytical Descriptive is a method used to describe or provide an illustration of the studied object through the collected data or samples without drawing any generalized conclusion.[19] In other words, a descriptive-analytical study selects an issue or focuses its attention on problems that exist during the research period. The collected data is managed and analyzed to draw a conclusion.[20]

Qualitative analysis is a method that refers to the legal norms that exist in legislation and court rulings, as well as the norms that exist and develop in the community.[21] The qualitative approach applied to primary and secondary data includes the content and structure of positive laws, an activity conducted by the researcher to determine the content or the meaning of a law taken as a reference in studying the selected legal issues.[22] The qualitative analysis means that the resulting materials and discussion are managed using a qualitative and systematic approach. The collected written legislation materials were classified according to the identified issues. The next step is to conduct a content analysis on the legal material documents and compare it to the information collected from interviewees to answer the proposed problems.

The approaches employed in this study are:

a. Statute Approach;

b. Conceptual Approach; and

c. Historical Approach.

Described in detail as follows:

a. Statute Approach

The Statute Approach is an approach that applies legislation and regulation[23] or the written regulations that contain legal norms that bind in general and are formed or prepared by a state institution or authorized official through a set of a procedure regulated by the laws and regulations.[24]

A normative study needs to employ a statute approach because it will study various legal regulations as its focus study. Therefore, a researcher needs to observe the law as a closed system with the following characteristics:[25]

a. Comprehensive meaning that the legal norms contained are related to one another logically.

b. All-inclusive means that the collection of the legal norms could accommodate the all-existing legal issues, and therefore there is a shortage in law.

c. Systematic meaning that besides being interconnected to one another, the law norms are also hierarchically arranged.

Other appropriate approaches besides the statute approach are needed to generate a factual and objective research finding. For example, through the comparison with legislation applied in other countries.

The statute approach in this study was implemented by creating an inventory of all prevailing regulations applied by other countries to solve the issues surrounding State Guidelines Principles.

b. Conceptual Approach

The conceptual approach synchronizes the perceptions or comprehension of legal languages with multiple interpretations. If a researcher makes a mistake in understanding the legal concept, it is a logical consequence that they will experience a mistake in their study. From the legal perspective, the concept of criminal law is different from civil law, trade law, administrative law, and other branches of law. Therefore, the

[18]Mukti Fajar, Yulianto Achmad, Dualisme Penelitian Hukum Normatif & Empiris, Yogyakarta: Pustaka Pelajar, 2010, page 34 dan 51.

[19]Sugiono, Metodologi Penelitian Kualitatif dan R&D, Bandung: Alfabeta, 2009.

[20]*Ibid.*, page 29

[21]Zainuddin Ali, Metode Penelitian Hukum, Jakarta: Sinar Grafika, 2013, page 105.

[22] *Ibid.*, hlm.107

[23]Peter Mahmud Marzuki, *Penelitian Hukum*, Surabaya: Kencana Prenada Media Group, November 2011, page 97

[24]Article 1 paragraph 2, Law Number 12 of 2011 concerning Formulation of Laws and Regulation.

[25]Johnny Ibrahim, Teori Dan Metodologi Penelitian Hukum Normatif, Malang: Bayu Media Publishing, 2007, page 303

conceptual approach plays a vital role in a legal study.[26]

The conceptual approach is employed on the legal principles that could be found in scholars' perspectives or legal doctrines. In the current study, the conceptual approach was employed on the following theories: Rule of Law theory as the grand theory, Welfare State theory as the middle-range theory, and Development theory as the applied theory. These three theories are the analysis tools employed by the researcher in discussing the identified problems.

c. Historical Approach

The historical approach was used because every legislation has different historical background. By understanding the historical background of legislation, the four components of the judiciary system (law enforcement officials) will have the same interpretation of the legal issues regulated in the regulatory system. According to Johnny, the historical approach allows a researcher to develop a deeper understanding of a system, institution, or legal regulation that will minimize mistakes in understanding and implementing an institution or a particular legal provision.[27]

While according to Peter Mahmud and Marzuki[28], the Historical Approach is applied under the framework for tracking the history of legal institutions over time. This approach greatly assists the researcher in understanding the philosophy or legal regulation from time to time. In the current study, this approach is related to the changes in GBHN provision in the Principles of State Guidelines from the Old Order, New Order, to Reformation Era.

IV. RESEARCH FINDINGS AND DISCUSSION

In short, the state guidelines as directive principles of the basic policy of state politics or legal politics should be separate from the constitution but also not taking a form of law, considering that the document should be used as a guideline in preparing legislation.

Every country and nation have different conceptions and consensus regarding the fundamental matters for the nation's sustainability, unity, and success. The conception was formulated by considering the nation's philosophy, worldview, and historical-sociological factors. Therefore, the options for constitutional models, legislation, and basic policies implemented by a nation do not have to be identical to those implemented in other countries, despite similarities.

The principles of state guidelines like GBHN have a vital function in achieving the conception of kinship-based state and welfare. Besides providing directive principles that offer guidelines for a planned, gradual, structured, and sustainable national development, the principles of state guideline like GBHN also has an allocative function in distributing various available resources. In the capitalist system, the function of resource allocation is handed to the market mechanism. In the etatism system, the resource allocation function is handed to the dictatorial commando. In Pancasila economic system, however, this allocation function is not entirely placed on the market mechanism nor state commando, but also through the people deliberation mechanism in MPR as a complete board of representatives.

This mechanism could be implemented if we have the right mentality and institutional framework to solve disagreements through a deliberation mechanism. Thus, the liberal and totalitarian democracy models need to be replaced by a deliberative democracy model that could accommodate the liberal-individual aspiration (people representatives), marginalized and strategic aspiration (group representatives), and regional aspiration (regional representatives).

Concerning this democracy concept, the presence of state guideline principles like GBHN is an integral part of kinship state conception that emphasizes consensus. Thus, long-term directive guideline is not handed to the President as a representative of the majority's expression but need to be formulated together through an extensive board that represents all elements of society. In this case, the President holds the authority to implement policies in the form of

[26]Suhaimi, Problem Hukum Dan Pendekatan Dalam Penelitian Hukum Normatif, https://core.ac.uk/download/pdf/229038528.pdf, accessed on 19 September 2021

[27] *Op.cit.*, Johnny Ibrahim page 318.

[28] *Op.cit.*, Peter Mahmud Marzuki, page 126.

short-term development plans.

In the first plenary session of the National Development Board (*Dewan Perancang Nasional*), President Soekarno stated that "Therefore, I argue that the pattern needs to be put forward to the People Consultative Assembly, thus MPR is our most extensive board…. If this pattern is accepted by the MPR, it becomes national's assets…therefore, the pattern needs to be implemented by all Indonesian people…nobody could change it."

By discussing and understanding the objective and constitutional practices proposed by the founding fathers, we could conclude that State Guideline demands two things: ideological guideline and strategic-technocratic guideline. The ideological guideline contains the fundamental principles as a guiding value in explaining the state philosophy and UUD 1945 articles into various legislations and developmental policies. The strategic-technocratic guideline contains a comprehensive, integrated, and guided long-term development plan pattern implemented gradually and sustainably while prioritizing regional characteristics.

In the old order era, the ideological guideline is known as "*Manipol Usdek*," while the strategic guideline is "*Pola Pembangunan Semesta Berencana*" (Holistic Development Pattern). In the New Order the ideological guideline was *kaidah penuntun* (guiding values), while the strategic guideline was the *Rencana Pembangunan Jangka Panjang* (long term development plan), broken down into *Rencana Pembangunan Lima Tahun* (Repelita) (five years development plan). However, the ideological guideline in the Old Order GBHN was in the form of a master narrative with abstract construction that did not provide a working ideology with practical instruction. In the New Order GBHN, the ideological guideline was short and normative guiding values, providing the introduction to the development planning.

Both as directive ideological or strategic-technocratic guidelines, the state guideline demands the inclusion of basic development policy in the value system (mental-spiritual-character), governance (social-political institutions), and welfare (material technological). The mental-spiritual development aims to build a nation with noble characters under the first, second, and third principles in Pancasila. The social-political institution development was directed to build a sovereign nation under the fourth principle in Pancasila, while the material-technological development aims to build an independent nation with public welfare under the fifth principle in Pancasila. Eventually, the three types of state guidelines, independently or simultaneously, are directed to achieve the state and nation's visions to create an independent, united, sovereign, just, and prosperous national life (material and spiritual) based on Pancasila.

The public supports for the effort to prepare state guideline similar to GBHN indicates the importance of State Guideline in the life of the nation and the state. The reformulation of the State Guideline does not mean that it must share the format and content with the older version of GBHN, but rather, substantially, as a legal politic, it must contain the guiding principle with ideological and strategic-technocratic directive principles.

Formulating state guideline akin to GBHN means that we could combine the positive lessons from various governmental regimes from Old Order, New Order, and Reformation Era. The preparation of state guidelines akin to GBHN could be implemented by combining the deductive and inductive approaches. The deductive approach is needed, especially in preparing the directive principles with ideological values. In comparison, the inductive approach is needed to formulate the directive principles with strategic-technocratic values by accommodating aspirations through the Musrembang mechanism developed in the Reformation Era. Through this means, the development plan could align with the guiding principles while offering strong relevance to the community's practical needs all over the country.

The survey conducted by MPR in collaboration with the Center for The Study of Religion and Culture (CSIS) and Universitas Islam Indonesia (UIN) (2020) shows that 89.6% of respondents want MPR RI to prepare GBHN in a different name. The idea to prepare a new form of GBHN is based on: Firstly, the loss of GBHN regulation that leads to the absence of a comprehensive state guideline that is expected to become a guide in solving various pressing matters in the state and community life. Secondly, there are concerns

over planned and sustainable development because development planning is only determined in a five-year cycle; therefore, there is a lack of guarantee that the next government will follow a long-term vital strategic development policy from the previous governmental office. Third, based on the two reasons above, there is a concern that the development goals as mentioned in the Preamble of UUD 1945 are not achieved or are moving further away from the proclamation's dreams. Therefore, according to the survey, firstly, state guideline is needed because it a fundamental document for the state's policies containing the direction and strategies for the nation in fulfilling their independence, containing the general pattern of national development, and desired condition in a specific time period to achieve Indonesian's dreams. Secondly, the elimination of GBHN leads to the absence of comprehensive stated guidelines expected to serve as a guideline in solving numerous pressing matters in the state and community life in achieving the state's objectives. Third, the absence of state guidelines causes partiality, non-holistic, and non-sustainable state governance because each governmental period brings a different vision to the table. Third, the absence of GBHN (in other forms) leads to the absence of people's will containing state guidelines that provide direction for Indonesians in fulfilling their independence. Fourth, the absence of GBHN also removed the control mechanism on President in ensuring that the development process follows the existing vision.

V. CONCLUSION

As mentioned, it is good to listen to President Soekarno's message on *Pembangunan Semesta dan Berencana* (planned and comprehensive development) that those preparing the state guideline "must describe using a strong, firm, and bright spirits. Describe something using *fors* lines so that it speaks to the nation. This description must provide hopes for the nation as UUD 1945 provides hopes for all of us. This description should be able to invite the nation to apply the proposed pattern. Our constitution is appropriate for the nation. The pattern you create should align with the rhythm, taste, personality, and outlook on life of the Indonesian nation."

Based on various notes and drawbacks of SPPN, thoughts and ideas on reformulating the national development plan started to appear. Although the amended UUD 1945 has abolished MPR authority in preparing GBHN, many parties want to improve national development planning through "*Model Pokok-pokok Haluan Negara* (PPHN)" (state guideline principles model) scenarios akin to the ones implemented in the past (GBHN).

The ideas and thoughts continue to strengthen after the Presidential/Vice-Presidential election in May 2019. PPHN is also a solution for national development planning in achieving the nation's objectives, as mentioned in the UUD 1945 preamble. The importance of PPHN akin to the previous GBHN as the directive principles is also supported by the public that encourages MPR to prepare new GBHN in the name of PPHN.

REFERENCES

BOOKS

Johnny Ibrahim, Teori dan Metodologi Penelitian Hukum Normatif, Malang: Bayu Media Publishing, 2007

Mochtar Kusumaatmadja, Pembinaan Hukum Dalam Rangka Pembangunan Nasional, Bandung: Bina Cipta, 1975

Pembinaan Hukum Dalam Rangka Pembangunan Nasional, Bandung: Bina Cipta, 1976

Pengembangan Filsafat Hukum Nasional, Pro Jusa, Tahun XV, No.1, 1997

Konsep-Konsep Hukum Dalam Pembangunan (Kumpulan Karya Tulis), Penerbit Alumni, Bandung, 2002,

Konsep Konsep Hukum Dalam Pembangunan, Bandung: Alumni, 2006

Hukum, Masyarakat, dan Pembinaan Hukum Nasional, Bandung: Bina Cipta, Lembaga Penelitian Hukum dan Kriminologi Fakultas Hukum Universitas Padjadjaran, no year.

Mukti Fajar, Yulianto Achmad, Dualisme Penelitian Hukum Normatif & Empiris, Yogyakarta: Pustaka Pelajar, 2010

Lili Rasjidi, Fase Kedua Perjalanan Teori Hukum Pembangunan, Hukum dan Perkembangan Sosial, Buku I, Jakarta: Pustaka Sinar Harapan, 1988.

Peter Mahmud Marzuki, *Penelitian Hukum*, Surabaya: Kencana Prenada Media Group, November 2011

Romli Atmasasmita, Tiga Paradigma Hukum Dalam Pembangunan Nasional, Jurnal Hukum Prioris, Vol. 3 No. 1, 2012

Roger Cotterrel, The Politic of Jurisprudence, Oxford University Press; second ed, 2003

Shidarta, Karakteristik Penalaran Hukum Dalam Konteks Ke-Indonesiaan, Penerbit CV Utomo, Jakarta, 2006,

Sugiyono, Metode Penelitian Kuantitatif Kualitatif dan R&D. Bandung: Alfabeta, 2009

Soejono Soekanto dan Sri Mamuji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Jakarta: Raja Grafindo Pustaka, 2010

Salim HS dan Erlias Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi*, Jakarta: Raja Grafindo Pustaka, 2013

Suhaimi, Problem Hukum Dan Pendekatan Dalam Penelitian Hukum Normatif, accessed on 19 September 2021

Zainuddin Ali, Metode Penelitian Hukum, Jakarta: Sinar Grafika, 2013

LEGISLATIONS

Constitution of the Republic of Indonesia 1945

Law Number 17 of 2007 concerning Long-term National Development Plan (RPJPM) 2005-2025

Law Number 25 of 2004 concerning the National Development Planning System (SPPN)

Law Number 12 of 2011 concerning the Establishment of Laws and Regulations

INTERNET SOURCES

archive.org

doa-bagirajatega.blogspot.com

edoc.pub

ejournal.upnvj.ac.id

mardoto.com

nanopdf.com

ppid.lan.go.id

pt.scrib.com

repository.ut.ac.id

repositori.usu.ac.id

ulm.ac.id

www. mnctrijaya.com

www.aliansikebangsaan.org

www.aktual.com

www.rechtsvinding.bphn.go.id

www.jogloabang.com

www.iyasyusuf.work

www.yumpu.com

www.kemendagri.go.id

www.besttangsel.com

www.viva.co.id

https://media.neliti.com/media/publications/96217-ID-tiga-paradigma-hukum-dalam-pembangunan-n.pdf,

https://core.ac.uk/download/pdf/229038528.pdf